IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S. G. PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

I.T.A. No. 112/2022 C/W I.T.A. No. 168/2022

BETWEEN:

1. THE COMMISSIONER OF INCOME-TAX EXEMPTIONS
   6TH FLOOR, UNITY BUILDING ANNEXE
   MISSION ROAD
   BENGALURU-560 027.

2. THE ASST. COMMISSIONER OF INCOME-TAX
   CENTRAL CIRCLE-1(3),
   PRESENT ADDRESS:
   DCIT, CIRCLE-1 EXEMPTION
   6TH FLOOR, UNITY BUILDING ANNEXE
   MISSION ROAD
   BENGALURU-560027.

...APPELLANTS
(COMMON IN BOTH APPEALS)

(BY SRI. M DILIP & SRI Y.V. RAVIRAJ, ADVS.)

AND:

M/S. ANANDA SOCIAL & EDUCATION TRUST
NO.24, KADUGONDANAHALLI

BENGALURU-560 045
PAN: AAATA 7392M.

...RESPONDENT
(COMMON IN BOTH APPEALS)

(BY SRI T SURYANARAYANA, SR. COUNSEL A/W
MS. TANMAYEE RAJKUMAR, ADV.)

THESE APPEALS ARE FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 29.05.2020 PASSED IN ITA NO.2655/BANG/2017 AND ITA NO.2543/BANG/2017 RESPECTIVELY (ANNEXURE-C) FOR A.Y. 2009-2010, PRAYING TO I) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; II) ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BENGALURU IN ITA NO.2655/BANG/2017 AND ITA NO.2543/BANG/2017 DATED 29.05.2020 FOR ASSESSMENT YEAR:2009-2010 ANNEXURE-C CONFIRMING THE ORDER OF THE APPELLATE COMMISSIONER AND CONFIRM THE ORDER PASSED BY THE DEPUTY COMMISSIONER INCOME TAX CIRCLE-1, EXEMPTIONS BENGALURU AND ETC.

THESE APPEALS HAVING BEEN HEARD AND RESERVED ON **09.07.2026** COMING ON FOR PRONOUNCEMENT THIS DAY, ***S.G.PANDIT J.,*** DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE S.G.PANDIT
and
HON'BLE MR JUSTICE DR.K.MANMADHA RAO

CAV JUDGMENT

(PER: HON'BLE MR JUSTICE S.G.PANDIT)

This Income Tax Appeal under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') is filed by the Revenue, aggrieved by the common Order of the Income Tax Appellate Tribunal "C" Bench, Bangalore (hereinafter referred to as 'the Tribunal') dated 29.05.2020, by which, the Tribunal dismissed the appeals filed by the Revenue in ITA Nos.2654-2660(B)2017)for the assessment years (hereinafter referred to as 'AY') 2008-09 to 2014-15 and allowed the appeals filed by the assessee in ITA Nos.2542-2548(B)/2017 for the AYs 2008-09 to 2014-15. These appeals have been filed by the Revenue, aggrieved by the Order of dismissal of the appeal filed by the Revenue and the order allowing the appeal filed by the assessee for the AY 2009-10.

2. The brief facts of the case are as under:

A search and seizure action under section 132 of the Act was carried out by the Revenue at the premises of the assessee, wherein the residential premises of the erstwhile Chairman and the trustees was also covered. Consequently, the case of the assessee for the AYs 2008-09 to 2013-14 was reopened under section 153A of the Act and AY 2014-15 was also selected for assessment. Subsequently, notice(s) under section 143(2) and 142(1) of the Act were also issued to the assessee. The assessment Order under section 153A read with section 143(3) of the Act was passed on 14.03.2016 assessing an income of Rs. 12,68,52,154/- for the AY 2009-10. The AO made addition to the income of the assessee on three counts. They are:-

i. Unaccounted income on account of fee charged for the management quota seats

ii. Unaccounted income on account of fee charged for unfilled Comed-K seats.

iii. Unaccounted income on account of fee charged for PG Course.

3. Aggrieved by the same, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) (hereinafter referred to as 'CIT(A)'). Vide Order dated 13.09.2017, the CIT(A) partly allowed the appeal filed the assessee and granted relief insofar as addition made by the AO for unaccounted fee charged on unfilled Comed-K seats. Aggrieved by the Order of the CIT(A), both the Revenue and the assessee were in appeal before the Tribunal. Vide impugned Order dated 29.05.2020, the Tribunal has allowed the appeals filed by the assessee and dismissed the appeals filed by the Revenue. Aggrieved by the dismissal of the Appeal filed by the Revenue and against allowing of the appeal filed by the assessee for the AY 2009-10, the Revenue is in appeal before this Court.

4. ITA.No.112/2022 was admitted on 15.02.2022 to examine the following substantial questions of law:

> *1. Whether on the facts and in the circumstances of the case, the Tribunal is right in law*

in deleting the addition's made by assessing authority towards unaccounted fees charged for UG and PG seats ignoring evidence brought on record by assessing authority and when collection of capitation fee by assessee is not voluntary which can partake character of income for purpose of section 2(24)(iia) of the Act and section 12(1) as well?

2. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in allowing appeals preferred by assessee and in dismissing Revenue's appeal by completely ignoring seized materials and findings given by assessing authority for making additions which were based on seized materials?

3. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in deleting additions made towards fee charged for seats under Management/NRI Quota for undergraduate MBBS Programme, unaccounted fees received from PG Courses, Unaccounted income on account of fee charged for seats filled up against COEMED-K cancellation as per management quota fees and setting aside denial of exemption under section 11 and 12 of the Act ignoring seized materials and intention of legislature in granting *exemption under section 11 and 12 of the Act to educational institutions?*

5. ITA.No.168/2022 was admitted on 03.03.2022 to examine the following substantial questions of law:

1. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in deleting the addition's made by assessing authority towards unaccounted fees charged for UG and PG seats ignoring evidence brought on record by assessing authority and when collection of capitation fee by assessee is not voluntary which can partake character of income for purpose of section 2(24)(iia) of the Act and section 12(1) as well?

2. Whether on the facts and in the circumstances of the case, the Tribunal's order can be said as perverse in nature as relief to assessee is granted by deleting all additions made by Assessing Authority?

3. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in deleting additions made towards fee charged for seats under Management/NRI Quota for undergraduate MBBS Programme, unaccounted fees *received from PG Courses, Unaccounted income on account of fee charged for seats filled up against COEMED-K cancellation as per management quota fees and setting aside denial of exemption under section 11 and 12 of the Act ignoring seized materials and intention of legislature in granting exemption under section 11 and 12 of the Act to educational institutions?*

6. Heard Sri. Y V Raviraj and Sri. Dilip M, learned standing counsel for the Revenue and Sri.Suryanarayana.T learned senior counsel for Smt. Tanmayee Rajkumar, learned counsel for the assessee.

7. Learned senior standing counsel for the Revenue Sri.Y V Raviraj would contend that the Tribunal committed a grave error in deleting the additions made by the AO towards unaccounted fee collected under the Management/NRI quota, PG courses and COMED-K cancellation seats. It is submitted that the additions were founded on several incriminating documents recovered during the course of search, including loose sheets, visitors'

slips, diaries and statements given by the erstwhile Trustee, which clearly established that the assessee had collected amounts over and above the fees accounted for in its books of account. Learned counsel would further submit that the Tribunal wrongly insisted upon independent corroborative evidence when the seized materials themselves constituted sufficient evidence to sustain the additions. It is also contended that the Tribunal failed to appreciate that the AO had rightly drawn inferences from the pattern disclosed by the seized material and that the deletion of the additions is contrary to the material available on record. It is, therefore, prayed that the appeal be allowed by answering the substantial questions of law in favor of the Revenue.

8. *Per contra*, learned senior counsel Sri.Suryanarayana T appearing for the assessee would support the order passed by the Tribunal and submit that the findings recorded by the Tribunal are pure findings of fact based on a proper appreciation of the evidence on

record. It is submitted that the additions made by the AO were founded entirely on unsigned loose sheets, visitors' slips and diary entries, none of which conclusively established receipt of any unaccounted income by the assessee. It is further submitted that the AO did not conduct any independent enquiry with the students, parents or any other independent person to verify whether any amount over and above the fees recorded in the books had in fact been collected. Learned senior counsel would contend that the Tribunal, after considering the explanations offered by the assessee and in the absence of any corroborative evidence, rightly held that the additions were based only on assumptions and presumptions. It is further submitted that the Tribunal, being the final fact-finding authority, has recorded findings based on the evidence available on record and the Revenue has failed to demonstrate that such findings suffer from perversity so as to warrant interference under Section 260A of the Act. Accordingly, it is prayed that the appeal be dismissed.

9. Having heard the learned counsel for the parties and having perused the material on record, we are not inclined to interfere with the order passed by the Tribunal for the following reasons:

The Tribunal, being the final fact-finding authority under the Act, has examined the entire material placed on record, appreciated the evidence and assigned cogent reasons while allowing the appeals filed by the assessee and dismissing the appeals filed by the Revenue. Unless the Revenue demonstrates that the findings recorded by the Tribunal are perverse or are based on no evidence, this Court, while exercising jurisdiction under Section 260A of the Act, would not be justified in re-appreciating the evidence and substituting its own conclusions.

10. At the outset, the Tribunal has noticed that the material relied upon by the AO pertained only to AYs 2009-10 and 2014-15. In spite of the same, the AO proceeded to make additions for all the AYs on the premise that the assessee had adopted a similar pattern in every year. The Tribunal found that there was no material to support such an inference and that the additions for the above AYs were based only on presumption. The Revenue has not pointed out any material to demonstrate that the said finding is erroneous or perverse.

11. With regard to AYs 2009-10 and 2014-15, insofar as the addition relating to MBBS Management/NRI quota seats is concerned, the Tribunal has noticed that the AO relied upon visitors' slips, diary entries and certain loose sheets recovered during the search. The assessee had consistently explained that the figures noted therein represented negotiations with prospective candidates and not the final amount received. The Tribunal has further

noticed that though the AO had issued notices under Section 133(6) of the Act, no discussion regarding the results of the enquiry under Section 133(6) of the Act have been made in the assessment Order by the AO. More importantly, no enquiry was conducted with any student or parent to establish that any amount over and above the amount accounted for in the books had actually been paid. The Tribunal has also noticed that though the allegation of the Revenue was that excess fees had been collected in cash, no corresponding addition towards unaccounted cash has been made for any of the AYs. On these facts, the Tribunal concluded that the additions rested only on presumptions and conjectures and not on corroborative evidence. Moreover, the Tribunal has also rightly noted that the erstwhile Chairman Sri.P.L.Nanjundaswamy in whose premises the majority of the seized material on the basis of which the additions were made, has not given any categorical statement that any amount was appropriated by him for personal benefits or that a part of the collections have been accounted for. Thus, the Revenue has not been able to corroborate the loose sheets and other seized materials on the basis of which the additions have been made. In the absence of any corroborative material, the Tribunal was justified in holding that the additions could not be sustained merely on the basis of the loose sheets and similar documents.

12. The Tribunal has adopted similar reasoning while considering the additions relating to PG seats. It has noticed that the diary maintained by the Personal Assistant to the erstwhile Chairman Sri.P.L.Nanjundaswamy contained entries only in respect of certain candidates and substantially related to AY 2014-15. However, the AO neither examined the concerned students or their parents nor brought any material on record to disprove the explanations offered by the assessee. The Tribunal has further noticed that the AO estimated the alleged

suppression of fees in respect of the remaining seats without any supporting material and also sought to apply the circumstances prevailing in one AY to another. The Tribunal has therefore held that the additions were based on presumptions, which could not be sustained.

13. Insofar as the addition relating to COMED-K seats is concerned, the Tribunal has noticed that the AO proceeded on the assumption that the fee charged for students admitted against COMED-K cancellation seats was the same as the fee charged for Management quota seats and computed the alleged unaccounted income on that basis. The Tribunal found that such an approach was not supported by the material on record and unfounded. The Tribunal has noticed that admissions under the COMED-K category were governed by the Consensual Agreement entered into between the Government of Karnataka and the Association of Private Medical Colleges, which prohibited collection of any amount over and above the prescribed fee.

The assessee had also produced the COMED-K rank cards and confirmation letters of the concerned students in support of its contention that the admissions were made under the COMED-K category and the prescribed fee alone was collected. The Revenue has not demonstrated that the said finding suffers from any perversity.

14. Thus, it is evident that the Tribunal has not ignored the seized material relied upon by the AO. It has analysed each category of documents, examined the explanations offered by the assessee and considered whether the AO had undertaken any enquiry to verify or disprove those explanations. On appreciation of the entire material, the Tribunal has recorded a finding that the additions were founded on presumptions, estimation and extrapolation without adequate corroboration. These are findings of fact based on the evidence available on record. The Revenue has not demonstrated that the findings suffer from perversity or that any relevant material has been

ignored. What is sought in the present appeal is only a re-appreciation of the evidence, which is impermissible in an appeal under Section 260A of the Act.

15. For the aforesaid reasons, the substantial questions of law Nos.1 and 2 in both the appeals are answered in favour of the assessee and against the Revenue. Substantial questions of law No.3 in both the appeals are left open. Accordingly, the appeals stand dismissed.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.K.MANMADHA RAO)
JUDGE

NC
CT: bms