

**PR. Commissioner Of Income Tax-2 Bmtc Building, Koramangala,
Bengaluru & Ors. Vs Canara Bank Rep By Its Director Fm Wing Head
Office, 112, J C Road, Bangalore 560002. Pan No. AAACC6106G**

Court: Karnataka High Court At Bengaluru

Date of Decision: Feb. 14, 2025

Acts Referred: Income Tax Act, 1961 " Section 32((1)9ii)), 263

Hon'ble Judges: Krishna S Dixit, J; G Basavaraja, J

Bench: Division Bench

Advocate: Sanmathi Indrakumar, Dilip. M, Manasa Ananthan

Final Decision: Dismissed

Judgement

Krishna S Dixit, J

1. The Revenue is in appeal for laying a challenge to the ITAT order dated 30.01.2024 whereby its Appeal in ITA No.994/Bang/2023 has been

negatived following a Coordinate Bench decision of this Court in ITA No.346/2018 between COMMISSIONER OF INCOME TAX vs. M/S.

CANARA BANK disposed of on 10.02.2023.

2. The Revenue has raised the following substantial questions of law for consideration:

a. Whether on the facts and circumstances of the case and in law, the Tribunal's order can be said as perverse in holding that second order passed

under Section 263 of the Act is null and void as the first 263 order has been set aside by Tribunal which is confirmed by this Hon'ble Court, ignoring

that both proceedings are different and as such the second 263 cannot be said d null and void?

b. Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal was justified in following decision of Apex court in case of

CIT V/s Finlay Mills Ltd (reported in 20 ITR page 475 (1951) which is applies to prior to the insertion of definition of intangible assets under Section

32 w.e.f 1/4/1999?

c. Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal was justified in not appreciating that Section 32(1)(ii) clearly

classifies Trademark as an intangible asset?

d. Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal was justified in confirming the order passed by appellate

authority dated 11/10/2023 when assessing authority rightly made disallowance entire logo expenses as same is capital expenditure as per Section 32

(1)9ii) of the Act?

3. Learned counsel appearing for the Assessee resists the appeal contending that there is no error attributable to the order of the Tribunal, since it has

simply followed the law declared by the Coordinate Bench in M/S. CANARA BANK supra. The reply of the panel counsel that this judgment is put in

challenge before the Apex Court in Dairy No.44987/2023 and therefore, the matter requires consideration at the hands of this Court is difficult to

countenance, especially when there is no interim order granted by the Apex Court staying the said judgment.

In the above circumstances, this appeal being devoid of merits is liable to be and accordingly rejected reserving liberty to the Revenue to seek revival

depending upon the outcome of the challenge now pending before the Apex Court. In that connection all contentions of the parties are kept open.

Costs made easy.