ITEM NO.40 COURT NO.9 SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).11577/2022

(Arising out of impugned final judgment and order dated 23-11-2021 in ITA No. 118/2015 passed by the High Court Of Karnataka At Bengaluru)

THE COMMISSIONER OF INCOME TAX & ANR. Petitioner(s)

VERSUS

M/S BANGALORE METRO RAIL CORPORATION LTD. Respondent(s)

(FOR ADMISSION and I.R.)

WITH
SLP(C) No. 11994/2022 (IV-A)
(FOR ADMISSION and I.R.)

Date : 17-10-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE SANJAY KAROL

For Petitioner(s) Mr. Balbir Singh, A.S.G.
Mr. Raj Bahadur Yadav, AOR
Mrs. Gargi Khanna, Adv.
Ms. Chinmayee Chandra, Adv.
Mr. Shyam Gopal, Adv.
Mr. Udai Khanna, Adv.
Mr. Shashank Bajpai, Adv.
Mr. Mohd Akhil, Adv.
Mr. Lalit Mohan, Adv.

For Respondent(s) Mr. Senthil Jagadeesan, AOR
Mr. Sajal Jain, Adv.
Ms. Sonakshi Malhan, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard Mr. Balbir Singh, the learned ASG appearing for the petitioners along with Mrs. Gargi Khanna, learned counsel. The respondent-assessee has entered appearance by filing caveat through Mr. Senthil Jagadeesan, learned counsel.

2. The senior counsel would submit that the question to be examined here is whether the High Court is correct in holding that based on the State Government's order dated 25.03.2008, interest income earned by Bangalore Metro Rail Corporation (assessee) cannot be treated as their income and whether the order of the State Government cannot preclude the assessee from the ambit of the income tax. Furthermore, whether the assessee company is a distinct legal entity and its earned income ought to be accounted in their Books of Accounts and assessed to taxation, as per the provisions of the *Income Tax Act, 1961.*

3. On the other hand, the learned counsel for the caveator would rely on the decision in *CIT vs. Karnataka Urban Infrastructure Development and Finance Corporation* [(2009) 315 ITR 301 (Kar)] and *CIT vs. Karnataka State Agricultural Produce Processing and Export Corporation Ltd*. [(2015) 377 ITR 496 (kar.)] to submit that since profit motive was absent for the assessee, and they simply fruitfully utilized income instead of keeping it idle, the income earned will be revenue in nature and not accretion to capital. So the assessee should not be subjected to taxation.

4. Issue notice, returnable in six weeks.

[DEEPAK JOSHI]
COURT MASTER

[KAMLESH RAWAT]
ASSISTANT REGISTRAR