



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 25TH DAY OF JUNE, 2024
BEFORE
THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV
WRIT PETITION NO. 14325 OF 2024 (T-IT)

BETWEEN:

1. BANGALORE THULASEEDAS SRINATH
47 YEARS
NO.180, 4TH MAIN, BEML LAYOUT,
BASAVESWRANAGAR
BANGALORE-560 079
PAN: GRMPS1178C

... PETITIONER

(BY SRI. RAVI SHANKAR S V., ADVOCATE)

AND:

1. INCOME TAX OFFICER
WARD 6 (2)(1)
BANGALORE-560 095
2. NATIONAL FACELESS ASSESSMENT CENTRE
ADDITIONAL / JOINT / DEPUTY /
ASSISTANT COMMISSIONER OF INCOME TAX /
INCOME TAX OFFICER,
INCOME TAX DEPARTMENT,
MINISTRY OF FINANCE
ROOM NO.401, 2ND FLOOR, E RAMP
JAWAHARLAL NEHRU STADIUM
DELHI-110 003
3. THE PRINCIPAL COMMISSIONER OF INCOME TAX-1
THE OFFICE OF THE PRINCIPAL
COMMISSIONER OF INCOME TAX-1





BMTC BUILDING, KORAMANGALA
BANGALORE-560 095

... RESPONDENTS

(BY SRI. M. DILIP., JUNIOR STANDING COUNSEL)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO i) DIRECT, QUASH THE NOTICE UNDER SECTION 148A(b) OF THE ACT, DTD 02/02/2023 AND 11/03/2023 BEARING DIN NO. ITBA/AST/F/148A(SCN)/2022-23/1049368698(1) AND ITBA/AST/F/148A(SCN)/2022-23/1050630319(1), ISSUED BY THE R-1 FOR THE ASSESSMENT YEAR 2019-20 HEREIN MARKED AS ANNEXURE-A AND A1 RESPECTIVELY AND ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner has challenged the notices issued under Section 148A(b) of the Income Tax Act, 1961 ('the Act' for brevity) at Annexures-'A' and 'A1' dated 02.02.2023 and 11.03.2023 respectively. The petitioner has also challenged the order passed under Section 148A(d) at Annexure-'A2' dated 27.03.2023, the notice issued under Section 148 at Annexure-'A3' dated 27.03.2023 and the Assessment Order passed under Section 147 read with Section 144 read with Section 144B at Annexure-'A4' dated 13.03.2024, penalty notice issued



under Section 274 read with Section 272A(1)(d) at Annexure-'A5' dated 13.03.2024, penalty notice issued under Section 274 read with Section 270A at Annexure-'A6' dated 13.03.2024 and the penalty notice issued under Section 274 read with Section 271B at Annexure-'A7' dated 13.03.2024.

2. The case of the petitioner is that the notices issued under Section 148A(b) of the Act was issued on 11.03.2024 and was directed to make out a reply on 15.03.2023, which time period is less than the time stipulated under Section 148A(b).

3. Section 148A(b) of the Act reads as follows:-

"148A. *The Assessing Officer shall, before issuing any notice under section 148.-*

(a) xxx

(b) Provide an opportunity of being heard to the assessee, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as



may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);

In light of the same, it is clear that not less than seven days ought to be provided for making out a reply to the notice.

4. The assertion of learned counsel for the petitioner that non-affording of time period of seven days has resulted in prejudice and violation of principles of natural justice requires acceptance, as it is noticed that the proceedings have been initiated in the absence of objections.

5. Accordingly, as the notices at Annexures-'A' and 'A1' itself are vitiated, the consequential orders and notices also require to be set aside.



6. Accordingly, the petition is allowed. The notices at Annexures-'A' and 'A1' dated 02.02.2023 and 11.03.2023 respectively, the order at Annexure-'A2' dated 27.03.2023, the notice at Annexure-'A3' dated 27.03.2023, the Assessment Order at Annexure-'A4' dated 13.03.2024, penalty notices at Annexures-'A5', 'A6' and 'A7', all dated 13.03.2024, are set aside.

7. However, liberty is reserved to the Revenue to take appropriate action as regards the subject matter of notice issued under Section 148A(b) of the Act, in accordance with law.

Sd/-
JUDGE



VGR