



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF JULY, 2024

BEFORE

THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 15831 OF 2024 (T-IT)

BETWEEN:

1. SITHAPPANA HALLI BYCHAPPA
PADMANABHA GOWDA
SRI VENKATESHLAKA NILAYA,
2ND FLOOR, 11TH CROSS,
SHANTHI LAYOUT MAIN ROAD,
AKSHAYA NAGAR,
BANGALORE-560 016

PRESENTLY KNOWN AS:

S B PADMANABHA GOWDA,
NO. 16,10TH CROSS, 2ND BLOCK,
AKSHAYA NAGAR RAMAMURTHY NAGAR
BANGALORE NORTH,
BANGALORE-560 016
PAN: CDTPP1923K
AADAAR NO. 2008 8297 0361

... PETITIONER

(BY SRI. S PARTHASARATHI., ADVOCATE)

AND:

1. THE INCOME-TAX OFFICER
WARD 4(1)(1)
BMTC BUILDING, 80 FEET ROAD,
6TH BLOCK, NEAR KHB GAMES VILLAGE,





KORAMANGALA,
BANGALORE-560 095.

2. THE ASSESSMENT UNIT
INCOME-TAX DEPARTMENT,
NATIONAL FACELESS ASSESSMENT CENTRE,
DELHI-110 001.

... RESPONDENTS

(BY SRI. SANMATHI E.I. ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES PRAYING TO A) ISSUE A WRIT OF CERTIORARI OR A DIRECTION IN THE NATURE OF WRIT OF CERTIORARI QUASHING THE NOTICE UNDER SECTION 148A(B) DATED 16.02.2023 IN NO.ITBA/AST/F/148A(SCN)2022-23/1049823291(1) ISSUED BY 1ST RESPONDENT FOR AY 2016-17 (ANNEXURE-A) AND ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE S SUNIL DUTT YADAV

ORAL ORDER

The petitioner has called in question the validity of the notice under Section 148A(b) of the Income Tax Act, 1961 ("the Act", for short) at Annexure-A.

2. The petitioner has also sought for setting aside of the order under Section 148A(d) of the Act at Annexure-B.



3. The petitioner has also sought for setting aside of the notice under Section 148 of the Act at Annexure-C.

4. The petitioner has also sought for setting aside of the assessment order under Section 147 r/w 144 r/w 144B of the Act at Annexure-D.

5. The petitioner has also sought for setting aside of the penalty order at Annexure-H, J and K and sought for writ of prohibition restraining the respondents to take out proceedings pursuant to notice under Section 148 of the Act. Certain allied reliefs are also sought for in the petition.

6. It is the case of the petitioner that show-cause notice has not been served on the petitioner and it is only at the stage of service of show-cause notice for levy of penalty, petitioner became aware of the assessment order passed. Petitioner submits that he has a good case on merits and if an opportunity is granted, he would be in a position to demonstrate that 148A(b) notice itself ought



not to have been passed. Accordingly, it is prayed that opportunity may be given to reply to Section 148A(b) notice.

7. Taking note that the assertion of the petitioner regarding non-service remains uncontroverted and also noticing that the order at Annexure-D has been passed in the absence of any stand by the respondent while recording a finding that variations could be made on the basis of inference drawn as the assessee has not filed return nor responded to the show-cause notice and accordingly, recording a finding that cash deposit of Rs.63,70,000/- noticed in the bank account has not been explained by any source of such deposit, it would be appropriate in light of such finding and in light of the stand of the learned counsel for petitioner that he would be in a position to explain the source of deposit, to set aside at the order at Annexure-D and penalty notices at Annexure-H, J and K.



8. Accordingly, the impugned order at Annexure-A, B, notices at Annexure-C and D and penalty notices at Annexure-H, J and K are set aside. The matter is restored to the stage of reply to Section 148A(b) notice.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

NP

