



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF AUGUST, 2024

BEFORE

THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 16062 OF 2024 (T-IT)

BETWEEN:

VARAHA BUILDERS
A PARTNERSHIP FIRM REPRESENTED BY ITS PARTNER
SRI HARI BABU
NO.180, GURUDUTT LAYOUT,
HOSAKEREHALLI
BANGALORE- 560085.

ALSO AT
HARI BABU,
AGED 48 YEARS,
S/O KANNAIAH M V,
NO. 1101, 12TH FLOOR, A BLOCK,
THE INFINITY , OPP CANARA BANK,
UTTARAHALLI, SUBRAMANYAPURA,
BANGALORE 560061,

...PETITIONER

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

AND:

1. THE INCOME TAX OFFICER
WARD 7(2)(5),
BANGALORE-560095
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 110003

3. THE PRINCIPAL CHIEF COMMISSIONER OF INCOME
TAX,
THE OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER
OF INCOME TAX,
CR BUILDING
BANGALORE - 560001

...RESPONDENTS

(BY SRI. E.I.SANMATHI, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR DIRECTION IN THE NATURE OF A WRIT OF CERTIORARI QUASHING THE NOTICE UNDER SECTION 148A(B) OF THE ACT, DATED 03/03/2023, BEARING DIN NO.ITBA/AST/F/148A(SCN)/2022-23/1050354233(1) ISSUED BY THE RESPONDENT NO.1 FOR THE ASSESSMENT YEAR 2016-17 HEREIN MARKED AS ANNEXURE - A; ISSUE A WRIT OF CERTIORARI OR DIRECTION IN THE NATURE OF A WRIT OF CERTIORARI QUASHING THE NOTICE UNDER SECTION 148A(B) OF THE ACT, DATED 11/03/2023, BEARING DIN NO.ITBA/AST/F/148A(SCN)/2022-23/1050641535(1), ISSUED BY THE RESPONDENT NO.1 FOR THE ASSESSMENT YEAR 2016-17 HEREIN MARKED AS ANNEXURE - A1; ISSUE A WRIT OF CERTIORARI OR DIRECTION IN THE NATURE OF A WRIT OF CERTIORARI QUASHING THE ORDER UNDER SECTION 148A(D) OF THE ACT, DATED 21/03/2023, BEARING DIN NO.ITBA/AST/F/148A/2022-23/1051050220(1) ISSUED BY THE RESPONDENT NO.1 FOR THE ASSESSMENT YEAR 2016-17 HEREIN MARKED AS ANNEXURE - A2.

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

CORAM: HON'BLE MR JUSTICE S.R.KRISHNA KUMAR



ORAL ORDER

In this petition, petitioner seeks the following reliefs:

"i) Issue a writ of Certiorari or direction in the nature of a writ of certiorari quashing the notice under Section 148A(b) of the Act, dated 03/03/2023, bearing No.ITBA/AST/F/148A(SCN)/2022-23/1050354233(1) issued by the Respondent No.1 for the assessment year 2016-17 herein marked as Annexure - A.

ii) Issue a writ of Certiorari or direction in the nature of a writ of certiorari quashing the notice under section 148A(b) of the Act, dated 11/03/2023, bearing No.ITBA/AST/F/148A(SCN)/2022-23/1050641535(1), issued by the Respondent No.1 for the assessment year 2016-17 herein marked as Annexure - A1.

iii) Issue a writ of Certiorari or direction in the nature of a writ of certiorari quashing the order under Section 148A(d) of the Act, dated 21/03/2023, bearing DIN No.ITBA/AST/F/148A/2022-23/1051050220(1) issued by the Respondent No.1 for the assessment year 2016-17 herein marked as Annexure - A2.

v) Issue a writ of Certiorari or direction in the nature of a writ of certiorari quashing the notice under Section 148 of the Act dated 21/03/2023 bearing DIN



No. *ITBA/AST/S/148_1/2022-23/1051053479(1)*
issued by the Respondent No.1 for the assessment
year 2016-17 herein marked as Annexure - A3.

v) Issue a writ of Certiorari or direction in the nature
of a writ of certiorari quashing the order passed
Under section 147 r.w.s 144, 144B dated 24/01/2024
bearing DIN No.ITBA/AST/S/147/2023-
24/1060049641(1) issued by the Respondent No. 2
for the assessment year 2016-17 herein marked as
Annexure - A4.

vi) Issue a writ of Certiorari or direction in the nature
of a writ of certiorari quashing the penalty notice
under Section 271(1)(c) of the Act dated 24/01/2024
bearing DIN No. ITBA/PNL/S/271(1)(c)/2023-
24/1060049842(1), issued by the Respondent No.2
for the assessment year 2016-17 herein marked as
Annexure - A5.

vii) Issue a writ of Certiorari or direction in the nature
of a writ of certiorari quashing the penalty order under
Section 271D of the Act dated 24/01/2024 bearing
DIN No. ITBA/PNL/S/271D/2023-24/1060049848(1),
issued by the Respondent No.2 for the assessment
year 2016-17 herein marked as Annexure - A6.

viii) Issue a writ of Certiorari or direction in the nature
of a writ of certiorari quashing the penalty notice
under Section 271(1)(b) of the Act dated 24/01/2024
bearing DIN No. ITBA/PNL/F/271(1)(b)/2023-



24/1060049857(1), issued by the Respondent No.2 for the assessment year 2016-17 herein marked as Annexure - A7.

ix) Issue a writ of Certiorari or direction in the nature of a writ of certiorari quashing the penalty order under Section 271F of the Act dated 24/01/2024 bearing DIN No. ITBA/PNL/S/271F/2023-24/1060050256(1), issued by the Respondent No.2 for the assessment year 2016-17 herein marked as Annexure - A8."

2. Heard learned counsel for the petitioner and learned counsel for the respondents and perused the material on record.

3. In addition to reiterating the various contentions urged in the memorandum of petition and referring to the material on record, learned counsel for the petitioner submits that notices issued by the respondents under Section 148A(b) of the Income Tax Act, 1961 (for short, 'IT Act'), dated 03.03.2023 and 11.03.2023 [Annexures - A and A1] were not received by the petitioner and it was not aware of the notices and consequently, the petitioner could not submit its reply/response along with documents to the said notices. It is submitted that the inability and omission on the part of the petitioner to submit reply/response along with documents to the Section 148A(b) notices was due to *bonafide*



reasons, unavoidable circumstances and sufficient cause and as such, if one more opportunity is provided to the petitioner to do so by setting aside the impugned orders and notices, the petitioner would do so and the respondents may be directed to proceed further in accordance with law.

4. Per contra, learned counsel for the respondents submits that there is no merit in the petition and that the same is liable to be dismissed.

5. A perusal of the impugned order will indicate that it is an undisputed fact that petitioner has not submitted reply/response along with documents to Section 148A(b) notices. Under these circumstances, in view of the specific assertion on the part of the petitioner that its inability and omission to submit a reply along with documents to Section 148A(b) notices was due to *bonafide* reasons, unavoidable circumstances and sufficient cause and if one more opportunity is granted, the petitioner would submit reply along with documents, I deem it just and appropriate to set aside the impugned order at Annexure – A2 dated 21.03.2023 passed under Section 148A(d) of the IT Act and subsequent notice/orders,



etc., and remit the matter back to respondent No.1 for reconsideration afresh from the stage of submitting of reply by the petitioner to Section 148A(b) notices and to proceed further in accordance with law.

6. In the result, I pass the following:

ORDER

- (i) The petition is hereby ***allowed***.
- (ii) Impugned notices/orders at Annexures - A, A1, A2, A3, A4, A5 and A6, A7 and A8 are hereby set aside.
- (iii) Matter is remitted back to respondent No.1 for reconsideration afresh in accordance with law from the stage of submitting of reply to the Show Cause Notices under Section 148A(b) of the IT Act at Annexures – A dated 03.03.2023 and A1 dated 11.03.2023.
- (iv) Liberty is reserved in favour of the petitioner to submit additional pleadings, documents, etc., to the



respondent No.1, who shall consider the same and
proceed further in accordance with law.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE



RB