



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH
DATED THIS THE 12TH DAY OF JUNE 2025
BEFORE
THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR
WRIT PETITION NO. 103507 OF 2025 (T-IT)**

BETWEEN:

MR. SURESH KUMAR PARUCHURI,
SON OF MR. P. SREERAMULLU,
AGED 57 YEARS,
HAVING ADDRESS AT,
KANCHEECO THIRUMALA SILKS,
DOOR NO.203, BANGALORE ROAD,
BURCPET CIRCLE, BALLARI-583101.

...PETITIONER

(BY SRI. SANDEEP HUILGOL, ADVOCATE)

AND:

1. THE COMMISSIONER OF INCOME-TAX (APPEALS)
NATIONAL FACELESS APPEAL CENTRE,
INCOME TAX DEPARTMENT,
ROOM NO.245-A, NORTH BLOCK,
NEW DELHI-110001.
2. THE ASSESSMENT UNIT,
NATIONAL FACELESS ASSESSMENT CENTRE,
INCOME TAX DEPARTMENT, 2ND FLOOR,
JAWA HARLAL NEHUR STADIUM,
NEW DELHI-110003.
3. THE INCOME TAX OFFICER,
WARD-1 BELLARY, AAYKAR BHAVAN,
STAFF ROAD, BALLARI-583102.

...RESPONDENTS

(BY SRI. M. TIRUMALESH &
SMT. ROOPA, ADVOCATES)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI

I. QUASHING THE IMPUGNED ORDER DATED 17.03.2025 BEARING DIN NO. ITBA/NFAC/S/250/2024-25/1074587335(1) PASSED BY THE 1ST RESPONDENT UNDER SECTION 250 OF THE INCOME-TAX ACT, 1961 FOR THE ASSESSMENT YEAR 2022-23 (ANNEXURE -A);

II. QUASHING THE ASSESSMENT ORDER DATED 13.02.2024 BEARING DIN NO.ITBA/AST/S/143(3)/2023-24/1060883949, PASSED BY THE 2ND RESPONDENT UNDER SECTION 143(3) READ WITH S.144B OF THE INCOME-TAX ACT, 1961 FOR THE ASSESSMENT YEAR 2022-23 (ANNEXURE -B);

III. QUASHING THE COMPUTATION SHEET DATED 13.02.2024 BEARING DIN NO.ITBA/AST/S/322/2023-24/1060884090(1) ISSUED BY THE 2ND RESPONDENT FOR ASSESSMENT YEAR 2022-23 (ANNEXURE B-1)

IV. QUASHING THE DEMAND NOTICE DATED 13.02.2024 BEARING DIN NO.ITBA/AST/S/156/2023-24/1060884014(1) ISSUED BY THE 2ND RESPONDENT UNDER SECTION 156 OF THE INCOME-TAX ACT, 1961 FOR THE ASSESSMENT YEAR 2022-23 (ANNEXURE B-2);

V. QUASHING THE NOTICE OF PENALTY DATED 13.02.2024 BEARING DIN NO.ITBA/PNL/S/270A/2023-24/1060884047(1) ISSUED BY THE 2ND RESPONDENT UNDER SECTION 274 READ WITH SECTION 270A OF THE INCOME-TAX ACT, 1961 FOR THE ASSESSMENT YEAR 2022-23 (ANNEXURE -C);

VI. QUASHING THE NOTICE OF PENALTY DATED 13.02.2024 BEARING DIN NO.ITBA/PNL/S/272A(1)(D)_FL/2023-24/1060870148(1) ISSUED BY THE 2ND RESPONDENT UNDER SECTION 274 READ WITH SECTION 272A(1)(D) OF THE INCOME-TAX ACT, 1961 FOR THE ASSESSMENT YEAR 2022-23 (ANNEXURE-D);

VII. DIRECT THE 3RD RESPONDENT TO RECONSIDER THE ISSUE ARISING IN THE ASSESSMENT ORDER OF THE PETITIONER FOR THE ASSESSMENT YEAR 2022-23 AFRESH, IN ACCORDANCE WITH LAW AND AS EXPEDITIOUSLY AS POSSIBLE AFTER ISSUING NOTICES UNDER SECTION 142(1) OF THE ACT TO THE REGISTERED PRIMARY AND SECONDARY EMAIL ADDRESSES OF THE PETITIONER WHICH ARE STATED ON HIS INCOME TAX PORTAL (ANNEXURE G), AND AFTER PROVIDING A FRESH AND REASONABLE OPPORTUNITY OF HEARING TO THE PETITIONER AND ALSO AFTER PROVIDING HIM WITH A REASONABLE AND EFFECTIVE OPPORTUNITY TO FILE



WRITTEN SUBMISSIONS AND DOCUMENTS IN SUPPORT OF HIS CASE;

VIII. IN THE ALTERNATIVE TO (VII) ABOVE, DIRECT THE 1ST RESPONDENT OR THE CONCERNED APPELLATE AUTHORITY TO RECONSIDER THE APPEAL FILED BY THE PETITIONER BEARING APPEAL NO.NFAC/2021-22/10335181 (ANNEXURE-A), AGAINST THE ASSESSMENT ORDER DATED 13.02.2024 AFRESH, IN ACCORDANCE WITH LAW AND AS EXPEDITIOUSLY AS POSSIBLE AFTER ISSUING HEARING NOTICES UNDER SECTION 250 OF THE ACT TO THE EMAIL ADDRESS OF THE PETITIONER STATED IN HIS APPEAL (ANNEXURE E), NAMELY "KCTSILKS@GMAIL.COM", AND TO PASS ORDERS AFRESH ONLY AFTER PROVIDING A FRESH AND REASONABLE OPPORTUNITY OF HEARING TO THE PETITIONER AND ONLY AFTER PROVIDING HIM WITH A REASONABLE AND EFFECTIVE OPPORTUNITY TO FILE WRITTEN SUBMISSIONS AND DOCUMENTS IN SUPPORT OF HIS APPEAL .

IX. CONSEQUENTLY, DIRECT THE 3RD RESPONDENT TO FORTHWITH REFUND THE AMOUNT OF RS.66,950/- WHICH WAS DEPOSITED 'UNDER PROTEST' ON 09.03.2024 TO THE PETITIONER TOGETHER WITH APPLICABLE INTEREST THEREON AND ETC.

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

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR)

This petition is filed by the petitioner seeking to quash the impugned order dated 17.03.2025 passed by the 1st respondent bearing DIN No.ITBA/NFAC/S/250/2024-25/1074587335(1) under Section 250 of the Income Tax Act, 1961 (for short, 'the Act') for the assessment year 2022-23 consequently to quash the assessment order dated 13.02.2024 and for consequential orders to quash



the computation sheet, demand notice, notice of penalty or in the alternative direct the 1st respondent or the appellate authority to reconsider the appeal filed by the petitioner bearing Appeal No.NFAC/2021-22/10335181 and to refund the amount deposited under protest.

2. Petitioner is an individual, who is registered as an assessee under the provisions of the Act bearing PAN No.ACSPP1326Q. The petitioner has paid his income tax returns for all the assessment years and he has been a diligent tax payer without committing any violation of default. The petitioner earned certain income by rent and from capital gains during the subject assessment year. He purchased the land vide Sale Deed dated 13.10.2010 from M/s.Shree Manjunatha Constructions and has constructed a commercial and residential apartment complex on the said land and has further sold the same to the present residents.



3. Petitioner filed his returns of income tax on 07.11.2022 in Form ITR 03 declaring the total income of Rs.58,35,000/-. He had declared that he had a long term capital gain (LTCG) of Rs.2,80,510/- on the sale of the aforesaid property. The petitioner's case was selected for scrutiny under CASS (Computer Assisted Scrutiny Selection). It is the contention of petitioner that communications and notices were issued during assessment proceedings were sent to the email address of petitioner's former Auditor, who was replaced by the present Auditor of petitioner. It is the contention of learned counsel for the petitioner that due to inadvertence and bonafide error, email address of the current Auditor was not updated at the relevant time in the departmental records, thereby the petitioner remained unaware of the notices/communications sent to the earlier auditor by the respondent/Revenue with regard to the proceedings, due to which, the petitioner could not respond to the notices or



submit required information or objections during the assessment proceedings.

4. It is contended by learned counsel for the petitioner that respondent No.2 proceeded to pass the impugned ex-parte assessment order dated 13.02.2024 under Section 143(3) read with Section 144(B) of the Act. The said order disallowed certain claims made by the petitioner solely on the ground that the petitioner had not furnished the requisite details. It is the contention of learned counsel for the petitioner that he became aware of the assessment years when only respondent No.3 informed him of the same through telephonic conversation.

5. Learned counsel further contends that though the assessment orders were sent to the former Auditor of the petitioner, it is only much later that the petitioner came to know of the said notices and penalty proceedings initiated against him. The petitioner preferred an appeal aggrieved



by the order passed by the 2nd respondent before the 1st respondent by paying 20% of the disputed tax by filing prescribed Form No.35 on 29.03.2024. It is contended that in the said Form No.35 petitioner has provided his specific email ID namely "*kctsilks@gmail.com*" for all correspondence in respect of the appeal. It is the contention of learned counsel that despite mentioning clearly the email address as "*kctsilks@gmail.com*" in Form No.35, the respondent sent notices to the earlier email address and not provided opportunity of hearing to the petitioner while passing the impugned order. Therefore, there is clearly violation of principles of natural justice. There is an error in not properly communicating to the petitioner to the email address, due to which, the petitioner was not aware of the proceedings and having not sent hearing notice to the present email address of the petitioner. The impugned order passed is in clear violation and breach of the Act and the procedure laid down, which has caused prejudice to the rights of the petitioner and



since no notice and opportunity of hearing was given the proceedings are vitiated. Hence, the same requires to be quashed.

6. Learned counsel relies upon the document at Annexure-H to show that the email were sent to the wrong address i.e., to his earlier Auditor despite the petitioner filing of Form No.35 and providing correct email address as on 29.03.2024, but the communication address dated 01.08.2024 and 09.08.2024 do not reflect the correct email ID of the petitioner. Under these circumstances, he seeks indulgence of this Court.

7. *Per Contra*, the learned counsel Sri M.Tirumalesh and Smt. Roopa representing the respondent/Revenue sustain the impugned order and submit that the notices have been sent through the email address furnished by the petitioner at the first instance and the same is in accordance with law. The petitioner ought to have corrected the email address at the first instance, even if



he has changed his Auditor and thereafter the appeal proceedings, the petitioner having participated ought to have paid the amount, which he is legally liable to pay. Therefore, it is contended that the present petition is not maintainable and the same deserves to be dismissed.

8. I have heard learned counsel for the petitioner and respondents. On careful perusal of the records, it is seen that admittedly original email address of the petitioner was different from that of the present email address furnished in Form No.35. But however, the fact remains that the notices were sent to the earlier email address of the petitioner, even after that the correspondence made by the petitioner by changing the email address to "*kctsilks@gmail.com*". Once the email address is changed and it is within the knowledge of the department, the department ought to have issued notice or communication to the petitioner to the present email address to facilitate him to contest the case and provide fair opportunity of hearing and decide the matter in accordance with law.



Admittedly, this is not done in the present case, therefore the impugned order passed by the respondents cannot be sustained in view of no proper notice and no proper opportunity of fair hearing provided to the petitioner. This petition will have to be allowed on this sole ground itself. Accordingly, I pass the following :

ORDER

- (i) This petition is allowed.
- (ii) The impugned order dated 17.03.2025 bearing DIN No.ITBA/NFAC/250/2024-25/1074587335 (1) passed by the 1st respondent under Section 250 of the Income Tax Act, 1961 for the Assessment year 2022-2023 at Annexure-A is hereby quashed.
- (iii) Consequently, respondent No.1 appellate authority to reconsider the appeal filed by the petitioner against assessment order dated 12.02.2024 afresh in accordance to law, and rectify the email address of the



petitioner for communication namely
("kctsilks@gmail.com") by providing
reasonable opportunity of fair hearing and pass
suitable orders in accordance with law
expeditiously.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE

CKK
CT-MCK List No.: 1 Sl No.: 21