NC: 2024:KHC:26351
WP No. 16175 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JULY, 2024

BEFORE

THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 16175 OF 2024 (T-IT)

BETWEEN:

1. SRI SHIVAKUMARASWAMY CREDIT
CO-OPERATIVE SOCIETY LTD.,
REPRESENTED BY ITS
CHIEF EXECUTIVE OFFICER
SRI NAGARAJA N G

OLD ADDRESS:
D.NO.1659/1, 1ST FLOOR
VIDYANAGAR, SN PLAZA
N R 1ST BUST STOP
VIDYANAGAR, T B EXTENSION,
DAVANAGERE-577 004.

NEW ADDRESS:
D NO.1660/47-1, 1ST FLOOR,
12TH CROSS, T B BADAVANE,
VIDYANAGAR, DAVANAGERE-577 005
REGISTERED UNDER
CO-OPERATIVE SOCIETIES ACT, 1959.

... PETITIONER

(BY SRI. RAMA MURTHY R., ADVOCATE)

AND:

1. THE INCOME TAX OFFICER
WARD-1,

'SHREE TOWERS',
HADAADI MAIN ROAD,
DAVANAGERE-577 002.

2. ASSESSMENT UNIT,
INCOME TAX DEPARTMENT,
REP. BY MINISTRY OF FINANCE,
GOVT. OF INDIA,
NEW DELHI-110 001.

... 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 (A) ISSUE A WRIT OF CERTIORARI OR IN THE NATURE OF WRIT OF CERTIORARI QUASHING THE NOTICES DATED 31.01.2023 AND 13.03.2023 ISSUED U/S 148A(B) OF THE ACT (ANNEXURE-B AND C) [ITBA/AST/F/148A(SCN)/ 2022-23/1049293217(1) AND ITBA/AST/F/148A(SCN)/2022-23/1050707888(1)] ISSUED FOR THE ASSESSMENT YEAR 2016-17 BY THE 1ST RESPONDENT AND ETC.

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

ORDER

Petitioner which is a Co-operative Society, has called in question the validity of notice under Section 148-A(b) of the Income Tax Act, 1961 (for short 'the Act') at Annexures-B and C; the order under Section 148-A(d) of the Act at Annexure-E; notice under Section 148 of the Act at Annexure-F; assessment order under Section 147 read with Section 144B of the Act at Annexure-H and the penalty notices at Annexures-J and J1.

2. It is the case of the petitioner that insofar as the cash deposits of the Bank are concerned, petitioner had made out a written reply on 24.01.2024 and had placed relevant documents referred to in Paragraph No.4.2 of the Assessment Order including the documents to demonstrate the source of cash deposits. It is submitted that cash flow chart as well as the bank book and cash book with narrations were furnished. It is submitted that however, the conclusion drawn by the Assessing Officer is that the assessee has not explained the genuineness of the transactions and identity and credit worthiness of the members by filing copies of relevant documents and evidence. It is further submitted that insofar as the genuineness of the transaction, petitioner would demonstrate the same if an opportunity is given.

3. Taking note that the petitioner has produced documents to explain the source of cash deposits while the

assessing officer has doubted the genuineness of such transactions, it would be appropriate to relegate the matter to the Assessing Officer with liberty to the petitioner to demonstrate the genuineness of the transactions including the identity and credit worthiness of the members during the relevant period of time.

4. In light of the same, the order under Section 148-A(d) of the Act at Annexure-E; notice under Section 148 of the Act at Annexure-F; assessment order under Section 147 read with Section 144B of the Act at Annexure-H and the penalty notices at Annexures-J and J1, are set aside. The matter is relegated to the stage of reply to the notice under Section 148-A(b) of the Act. All contentions are kept open including those not adverted to specifically.

5. Accordingly, the petition is disposed off.

Sd/-
JUDGE

VP