IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF APRIL, 2024

BEFORE

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

WRIT PETITION NO. 10948 OF 2024 (T-IT)

BETWEEN:

M/s. CENTURY JOINT DEVELOPMENTS PVT. LTD.,
PRIVATE LIMITED COMPANY
EARLIER M/s. GREENORCHARDS FARM HOUSES
PARTNERSHIP FIRM, NO.10/1,
LAKSHMINARAYANA COMPLEX,
PALACE ROAD, VASANTH NAGAR,
BENGALURU-560 052,
REP BY ITS MANAGING DIRECTOR
SRI ASHWIN PAI.

…PETITIONER

(BY SRI. NAGHARISH G S., ADVOCATE)

AND:

1. CENTRAL BOARD OF DIRECT TAXES
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
REP BY ADDITIONAL CIT (OSD)
(OT AND WT),
JEEVAN VIHAR BUILDING
SANSAD MARG,
NEW DELHI-100 001.

2. PRINCIPAL CHIEF COMMISSIONER,
KARNATAKA AND GOA,
CENTRAL REVENUE BUILDING,
INFANTRY ROAD,
BANGALORE-560 001.

3. PRINCIPAL COMMISSIONER OF
INCOME TAX-3, 6TH FLOOR,
80 FT ROAD, BMTC BUILDING,
KORMANGALA,
BANGALORE-560 095.

4. ASSESSING OFFICER
ACIT CIRCLE-3(1)(2), 6TH FLOOR,
80 FT ROAD, BMTC BUILDING,
KORMANGALA
BANGLAORE-560 095.

5. ASST. DIRECTOR OF INCOME TAX
CENTRALIZED PROCESSING CENTER
48/1, 48/2, PRESTIGE ALPHA,
BERATENA AGRAHARA,
ELECTRIC CITY(POST)
HOSUR ROAD,
BANGALORE-560 500.

…RESPONDENTSS

(BY SRI. M.DILIP, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 05/03/2024 PASSED BY FIRST RESPONDENTS F NO. 312/8/2020-OT PRODUCED AS ANNEXURE-E AND CONSEQUENTLY CONDONED THE DELAY IN FILING THE RETURN OF 2 HOURS 38 MINUTES AND 28 SECONDS AND QUASH THE INTIMATION DATED 19/08/2020 PASSED BY FIFTH RESPONDENTS BEARING NO. CPC/1920/A6/2003013599 PRODUCED AS ANNEXURE-B AND CONSEQUENTLY PERMIT CARRY FORWARD OF LOSS AND ETC.,

THIS PETITION, COMING ON FOR *ORDERS*, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

In this petition, the petitioner seeks the following reliefs:

"a. Issue a writ of certiorari to quash the order dated:- 05.03.2024 passed by first respondents F.NO.312/84/2020-OT produced as Annexure-E and consequently condoned the delay in filing the return of 2 hours 38 Minutes and 28 seconds

b. Issue a writ of certiorari to quash the intimation dated 19.08.2020 passed by fifth respondents bearing no. CPC/1920/A6/2003013599 Produced as Annexure- B and consequently permit carry forward of loss.

c. Issue such other Writ or direction as this Hon'ble Court deem fit to grant in the facts and circumstances of the present case."

2. In addition to reiterating the contentions urged in the present petition, learned Senior Counsel invited my attention to the impugned order dated 05.03.2024 passed under Section 119(2)(b) of the Income Tax Act, 1961, in order to contend that the respondents committed gravious/serious error in refusing to condone the extremely small/short delay of 2 Hours 38 Minutes and 26 Seconds in filing the Income Tax Returns for the Assessment Year 2019-20. It is submitted that having come to the conclusion that the petitioner was not entitled for condonation of

delay, the first respondent further erred in issuing the impugned intimation, which also deserves to be quashed.

3. Per contra, learned AGA submits that there is no merits in the present petition and the same is liable to be dismissed.

4. As rightly contended by the learned Senior Counsel for the petitioner, the impugned order passed by the first respondent refusing to consider the extremely short/small delay of 2 Hours 38 Minutes and 26 Seconds by adopting a hyper technical approach is clearly contrary to the material on record without appreciating the specific contention of the petitioner that he could not file the Income Tax Returns on account of genuine hardship as contemplated in the Circular dated 09.06.2015 bearing No.9/2015 and also the provisions of Section 119 (2)(b) of the Income Tax Act, 1961. It is also relevant to state that having come to the conclusion that the petitioner was not entitled for condonation of delay, the first respondent did not have jurisdiction or authority of law to issue impugned intimation at Annexure-B, which consequently deserves to be quashed and the delay in filing the returns deserves to be condoned and necessary directions to be issued to the respondents.

5. In the result, I pass the following

ORDER

(i) Petition is hereby ***allowed***;

(ii) Impugned intimation dated 19.08.2020 and impugned order dated 05.03.2024 issued/passed by the first respondent are hereby *quashed*;

(iii) The delay in filing the Income Tax Returns for the Assessment Year 2019-2020 stands condoned; and

(iv) Respondents is directed to process the income tax returns submitted by the petitioner and proceed further in accordance with law .

Sd/-
JUDGE

AV
List No.: 1 Sl No.: 51