NC: 2024:KHC:24862
WP No. 11636 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JULY, 2024

BEFORE

THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 11636 OF 2024 (T-IT)

BETWEEN:

1. M/S AZEEM INFINITE DWELLING INDIA PVT LTD
NO.6, G M PEARL, 1ST PHASE,
BTM LAYOUT, BANGALORE - 560 068,
REPRESENTED BY ITS MANAGING DIRECTOR,
SRI GULAM MUKTHIYAR
S/O LATE GULAM RASOOL
AGED ABOUT 44 YEARS
REGISTERED UNDER COMPANIES ACT 1956.

... PETITIONER

(BY SMT VANI H., ADVOCATE)

AND:

1. THE INCOME TAX OFFICER
WARD 1(1)(1) BMTC BUILDING,
80 FEET ROAD, 6TH BLOCK,
NEAR KHB GAMES VILLAGE,
KORAMANGALA, BANGALORE - 560 001

2. ASSESSMENT UNIT
NATIONAL FACELESS ASSESSMENT CENTER,
INCOME TAX DEPARTMENT,
REP. BY INCOME TAX OFFICER
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
NORTH BLOCK, 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 SET ASIDE THE IMPUGNED ORDER BEARING DIN AND ORDER NO. ITBA/AST/F/148A/2022-23/1042426979(1) DATED 1.4.2022 PASSED UNDER SECTION 148A(d) OF THE ACT BY THE R1 FOR THE ASSESSMENT YEAR 2018-19 VIDE ANNEXURE-A AND CONSEQUENTLY SET ASIDE THE NOTICE NO. ITBA/AST/S/148 1/2022-23/1042428576(1) DATED 1.4.2022 ISSUED UNDER SECTION 148 BY THE R1 VIDE ANNEXURE-B AND ETC.

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

ORDER

The petitioner has challenged the order passed under Section 148A(d) of the Income Tax Act, 1961 ('the Act for brevity) at Annexure-'A' dated 01.04.2022, the notice issued under Section 148 at Annexure-'B' dated 01.04.2022, the Assessment Order passed under Section 147 read with Section 144 read with Section 144B at Annexure-'D' dated 26.02.2024, the notice of demand issued under Section 156 at Annexure-'E' dated 26.02.2024 and the notice of penalty issued under Section 274 read with Section 272A(1)(d) at Annexure-'F' dated 26.02.2024.

2. It is the case of the petitioner that the petitioner has not been communicated with the notice which has culminated in the passing of Assessment Order and that the E-mail ID referred to in the Assessment Order refers to the E-mail ID previously created by the earlier Accountant who has left the services of the Company and in light of the same, all correspondences and notices addressed to the E-mail ID referred to in the Assessment Order as gmaccounts@gminfinite.com not having been communicated, the entirety of proceedings are vitiated by the violation of principles of natural justice and that the petitioner may be granted an opportunity to respond to the notice issued under Section 148A(b) and the petitioner would cooperate in the conclusion of proceedings expeditiously.

3. Learned counsel for the petitioner has filed a memo enclosing copy of the notice dated 15.03.2022 issued under Section 148A(b) to the petitioner.

4. Taking note of the memo filed and submission made and in particular, to the E-mail ID to which the correspondences and notices have been sent being that of the former Accountant who is no longer in the services of the Company, it would meet the ends of justice to relegate the petitioner to the stage of reply to notice under section 148A(b) of the Act dated 15.03.2022.

5. In light of the above, Annexure-'A' dated 01.04.2022, Annexure-'B' dated 01.04.2022, Annexure-'D' dated 26.02.2024, Annexure-'E' dated 26.02.2024 and Annexure-'F' dated 26.02.2024 are set aside. The matter is remitted to the stage of Section 148A(b).

Accordingly, the petition is ***disposed off.***

Sd/-
JUDGE

VGR