IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 07TH DAY OF JUNE, 2022

BEFORE

THE HON'BLE MR. JUSTICE M.I.ARUN

WRIT PETITION NO.9669/2022 (T-IT)

BETWEEN:

SRI.PICHILA JAYACHANDRA REDDY
SON OF SRI.MASTHAN P.REDDY
AGED ABOUT 80 YEARS,
RESIDING AT NO.554, 9TH A MAIN ROAD,
IST STAGE, INDIRANAGAR,
BENGALURU – 560 038.

... PETITIONER

(BY SRI. ANNAMALAI S., ADVOCATE)

AND:

1. NATIONAL FACELESS ASSESSMENT CENTRE
REP. BY ADDL/JOINT/DEPUTY/ASSISTANT
COMMISSIONER OF INCOME TAX/INCOME
TAX OFFICER, INCOME TAX DEPARTMENT,
MINISTRY OF FINANCE, ROOM NO 401,
2ND FLOOR, E-RAMP, JAWARLAL NEHRU
STADIUM, NEW DELHI – 110 003.

2. THE ASSISTANT COMMISSIONER OF
INCOME TAX, CIRCLE-1(2)(2)
BMTC BUILDING, 80 FEET ROAD,
KORAMANGALA, 6TH BLOCK,
BENGALURU – 560 095.

... RESPONDENTS

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

THIS WRIT PETITION 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 ASSESSMENT ORDER ALONG WITH DEMAND NOTICE BEARING DIN AND LETTER NO.ITBA/AST/F/17/2021-22/1042398683(1) FOR THE ASSESSMENT YEAR 2012-13 DATED 31.03.2022 PASSED BY THE RESPONDENT NO.1 AND ETC.

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

ORDER

Aggrieved by the assessment order for the year 2012-13 dated 31.03.2022 bearing No.ITBA/AST/F/17/2021-22/1042398683(1) vide Annexure-A to the writ petition the assessee has filed the instant writ petition.

2. The case of the petitioner is that he has filed the necessary returns in accordance with law pursuant to the order of Income Tax Appellate Tribunal, Bengaluru. However, the case of the petitioner was taken up for consideration by respondent No.1-authority and notice under Section 142(1) of the I.T. Act dated 27.03.2022 was issued to the petitioner calling upon him to furnish the particulars or show cause on or before 28.03.2022 by 10.00 am. It is noticed that 27.03.2022 was a Sunday and petitioner has been given

less than one day to provide necessary particulars. However, petitioner has requested an adjournment to the authorities and sought for seven days time to provide necessary particulars. The authorities on 31.03.2022 issued show cause notice as to why, the returns could not be reconsidered and why the proposed variation could not be made and gave about one hour time for him to provide necessary particulars. As the petitioner was not in a position to provide necessary particulars, order dated 31.03.2022 bearing No.ITBA/AST/F/17/2021-22/1042398683(1) vide Annexure-A to the writ petition has been passed by the authorities. Aggrieved by the same the instant writ petition is filed.

3. The case of the petitioner is that the respondent-authorities have not acted in a reasonable manner and have not provided sufficient opportunity to him to provide necessary documents and if reasonable opportunity is given, he will provide necessary particulars and justify the returns filed by him.

4. Though the learned counsel for respondents justifies the action of the authorities and prays for the dismissal of the writ petition, he admits that the notice was issued on 27.03.2022 giving one day time to the petitioner to give his response and on 31.03.2022 show cause notice was issued giving one hour time to the petitioner to respond and on the same day and as the petitioner did not file any objections, the impugned order has been passed.

5. It is clear from the record that no reasonable opportunity of hearing has been accorded to the petitioner and on that count the interim order is liable to be set aside and the matter requires to be remand back to the authorities to consider the petitioner's request of affording a reasonable opportunity of hearing.

Hence, the following;

<u>ORDER</u>

1) Order dated 31.03.2022 bearing No.ITBA/AST/F/17/2021-22/1042398683(1) vide Annexure-A to the writ petition is set aside.

2) Matter is remitted to respondent No.1-authority.

3) Respondent No.1-authority shall issue notice to the petitioner and afford him reasonable opportunity of hearing of atleast seven days time to respond to the notice and thereafter consider all the relevant materials on record and take appropriate decision in accordance with law.

Accordingly, the writ petition stands ***disposed of.***

Sd/-
JUDGE

GPG