IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MR JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 1281 OF 2023 (T-IT)

BETWEEN:

JADKAL VYVASAYA SEVA
SAHAKARA SANGHA NIYAMITA
JADKAL
(REGISTERED UNDER KCS ACT 1959)
BYNDOOR, UDUPI 576233
REP BY ITS CHIEF EXECUTIVE OFFICER
MR VENAKTARAMANA SHARMA

...PETITIONER

(BY SRI. MAHESH R UPPIN.,ADVOCATE)

AND:

1. COMMISSIONER OF INCOME TAX (APPEALS)
   NATIONAL FACELESS APPEAL CENTRE
   ROOM NO 356, C R BUILDING
   I P ESTATE, NEW DELHI 110002.
2. ASSESSING OFFICER
   NATIONAL FACELESS
   ASSESSMENT CENTRE
   DELHI 110002.
3. INCOME TAX OFFICER
   WARD 2, AYAKAR BHAVAN
   ADI UDUPI, MALPE ROAD
   UDUPI 576103.

...RESPONDENTS

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

Digitally signed by NARASIMHA MURTHY VANAMALA
Location: HIGH COURT OF KARNATAKA

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF MANDAMUS BY DIRECTING THE 1ST RESPONDENT TO DISPOSE OF THE APPEAL ANNEXURE-C DATED 03/10/2022 FILED BY THE PETITIONER IN THE E-PORTAL WITHIN A PERIOD OF THREE MONTHS AND TILL THE DISPOSAL OF THE SAID APPEAL, NOT TO MAKE ANY DEMAND OF INCOME TAX FROM THE PETITIONER OR IN THE ALTERNATIVE; DIRECT THE THIRD RESPONDENT TO FORWARD THE APPLICATION FILED UNDER ANNEXURE-E DATED 03/10/2022 TO THE SECOND RESPONDENT AND IN TURN DIRECT THE SECOND RESPONDENT TO CONSIDER THE SAID APPLICATION IN ACCORDANCE WITH LAW AND TILL THE DISPOSAL OF THE SAID APPLICATION NOT TO RECOVER THE TAX UNDER DEMAND.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner has filed this petition for a direction to the first respondent to dispose of the petitioner's appeal [Annexure-C] within a timeline, or in the alternative, has sought for directions to the second respondent to consider his application for stay [Annexure-E] with a direction to the second respondent not to take any action until such application for stay is considered.

Sri. Mahesh R Uppin, the learned counsel for the petitioner, submits that in similar circumstances this Court has disposed of the writ petition in W.P. No.22913/2022 by order dated 09.12.2022 directing the Appellate Authority to dispose of the appeal expeditiously with simultaneous direction to the second respondent to consider the application for stay and pass suitable orders in accordance with law within a period of three [3] weeks from the date of receipt of a copy of the order with a further direction that no precipitative or coercive measures shall be taken. As such, this Court may consider passing similar orders in this petition.

Sri E I Sanmathi, the learned standing counsel for the respondents, who is called upon to accept notice, submits that this Court could consider directing the second respondent to consider the petitioner's application for stay [Annexure-E] within three [3] months from the date of receipt of a certified

copy of this order and also the petitioner's request for directions for expeditious disposal of the appeal.

In the light of the above, the petition stands disposed of directing the second respondent to consider the petitioner's application for stay [Annexure-E] within a period of three [3] months from the date of receipt of a certified copy of this order strictly in accordance with law and until such decision, the respondents are restrained from taking any coercive measures against the petitioner. It would be open to the petitioner to seek expeditious disposal of the appeal before the Appellate Authority.

Sd/-
JUDGE

AN/-