NC: 2023:KHC:24191
WP No. 9517 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF JULY, 2023

BEFORE

THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 9517 OF 2023 (T-IT)

BETWEEN:

1. PRIMARY AGRICULTURAL CREDIT
CO-OPERATIVE SOCIETY LTD.,
(VYAVASAYA SEVA
SEVA SAHAKARI SANGHA LTD.)
(A SOCIETY REGISTERED UNDER KCS ACT, 1959)
GONIBEEDU VILLAGE AND POST
MUDIGERE TALUK
CHIKKAMAGALURU DISTRICT - 577 132
REPRESENTED BY ITS C E O
MR U K SHIVAPRASAD
AGE: 35 YRS

... PETITIONER

(BY SRI. MAHESH R UPPIN., ADVOCATE)

AND:

Digitally signed by VIDYA G R
Location: High Court of Karnataka

1. INCOME TAX OFFICER
WARD - 1
AAYAKAR BHAVAN
COURT ROAD,
CHIKKAMAGALURU - 577 101

... RESPONDENT

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

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DTD 27.03.2023 BEARING DIN NO. ITBA/AST/F/148A/2022-23/1051473071(1) PASSED BY THE RESPONDENT MARKED AS ANNEXURE-H AND THE ORDER DTD 28.03.2023 BEARING DIN & NOTICE NO.ITBA/AST/S/148-1/2022-23/1015475477(1) ISSUED BY THE RESPONDENT

MARKED AS ANNEXURE-J BY ISSUING A WRIT IN THE NATURE OF CERTIORARY AND ETC.

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

ORDER

The petitioner has sought for setting aside of the Assessment Order at Annexure-'H' dated 27.03.2023 for the Assessment Year 2019-2020 passed under Section 148A(d) of the Income Tax Act, 1961 ('I.T. Act' for brevity) and also the notice at Annexure-'J' dated 28.03.2023 issued under Section 148 of the I.T. Act.

2. Learned counsel for the petitioner submits that it is the case of the petitioner that returns for the Assessment Year 2019-2020 have been filed under the PAN No.AAEAP0046Q and that the notice in respect of the same Assessment Year 2019-2020 under Section 148A(b) for the purpose of re-assessment is sought to be issued to the petitioner under the old PAN number which has been surrendered.

3. Attention is drawn to the notice dated 13.02.2023 issued under Section 148A(b) at Annexure-'D'. Perused the contents of notice at Annexure-'D'. The notice is issued insofar as the same petitioner insofar as regards the Assessment Year 2019-2020 under the PAN No.AAAAV8405F. If it is the contention of the petitioner that for the same Assessment Year insofar as the petitioner is concerned, the returns have already been filed under the new PAN number and the old PAN number has been already surrendered, the said aspect ought to have been taken note of while passing the order at Annexure-'H' under Section 148A(d) of the I.T. Act. A perusal of the order at Annexure-'H' does not find any reference to such contention.

4. Accordingly, the order at Annexure-'H' dated 28.03.2023 passed under Section 148(d) is set aside and the consequential notice dated 28.03.2023 issued under Section 148 at Annexure-'J' is also set aside. The matter is remitted to the Authority to the stage of post Section

148A(b). The Authority is directed to consider the objections filed earlier and also any fresh objection to be filed by the petitioner and the Authority may grant an opportunity of personal hearing, if such request is made. Upon such hearing, before passing the order under Section 148A(d), the Authority shall specifically advert to the contention that petitioner having filed the returns for the Assessment Year 2019-2020 under the new PAN number and is to record the submission regarding the assertion that old PAN number has been surrendered. All contentions are kept open.

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

Sd/-
JUDGE

VGR