NC: 2024:KHC:7986
WP No. 29104 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2024

BEFORE

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

WRIT PETITION No. 29104 OF 2023 (T-IT)

BETWEEN:

MR. GOPAL JADWANI
S/O SHRI MATHRA DAS
AGED ABOUT 62 YEARS
PROPRIETOR SHREE BALAJI TRADERS
No.22/1 6TH CROSS, LAKSHMI ROAD
SHANTHINAGAR
BANGALORE - 560 027.

...PETITIONER

(BY SRI NARENDRA KUMAR J.JAIN, ADVOCATE
SRI GEETHA RANI K, ADVOCATE)

AND:

Digitally signed by LAKSHMINARAYANA MURTHY RAJASHRI
Location: HIGH COURT OF KARNATAKA

1. THE PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL)
ROOM No.302, III FLOOR
CENTRAL REVENUE BUILDING
QUEENS ROAD
BANGALORE - 560 001.

2. THE ASSISTANT COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE 1(4)
CENTRAL REVENUE BUILDING
QUEENS ROAD
BANGALORE - 560 001.

...RESPONDENTS

(BY SRI Y V RAVIRAJ, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSITITUTION OF INDIA PRAYING TO QUASH AS FAR AS THE PETITIONER IS CONCERNED BY AN APPROPRIATE WRIT OR ORDER IN THE NATURE OF CERTIORARI OR OTHERWISE THE IMPUGNED ORDER VIDE ITBA/COM/M/17/2023/24/1053986089(1) DATED 27/06/2023 ISSUED BY THE LEARNED FIRST RESPONDENT UNDER SECTION 264 FOR AY 2011-12 ENCLOSED AS ANNEXURE-A AND ETC.,

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

ORDER

In this petition, the petitioner seeks quashing of the impugned order dated 27.06.2023 passed by the first respondent – revisional authority, whereby the petition filed by the petitioner under Section 264 of the Income Tax Act, 1961 (for short 'I.T. Act') was dismissed by the first respondent.

2. Perusal of the material on record will indicate that the first respondent – revisional Authority has dismissed the petition on two grounds viz., firstly that there was a long and inordinate delay of nine years in filing the revision petition by the petitione, secondly a revision against the intimation under Section 143(1) of the Income Tax Act was not maintainable and the proper remedy available to the petitioner was to approach the appellate authority under Section 246A of the I.T. Act.

3. Learned counsel for the petitioner submits that the inability and omission on the part of the petitioner to approach the

revisional authority within the prescribed period by filing the revision petition was on account of non-receipt of the intimation by the petitioner and due to *bonafide* reasons / unavoidable circumstances and sufficient cause. It is also submitted that the present petition may be disposed of as withdrawn, reserving liberty in favour of the petitioner to prefer an appeal before the appellate authority under Section 246A of I.T.Act, with a direction to the appellate authority to dispose of the appeal in accordance with law.

4. *Per contra*, learned counsel for the respondents submits that he has no objection for the petitioner to withdraw the petition, by reserving liberty to file an appeal by leaving open all contentions to be decided by the first appellate authority.

5. In view of the aforesaid facts and circumstances of the case, I deem it just and appropriate to dispose of this petition as withdrawn, reserving liberty to the petitioner to prefer an appeal before the appropriate appellate authority, who shall consider the same and proceed further in accordance with law. If such an appeal is preferred by the petitioner before the appellate authority

within a period of four weeks from today, the appellate authority shall consider and pass appropriate orders in accordance with law.

Sd/-
JUDGE

GH
List No.: 1 Sl No.: 12