NC: 2024:KHC:41951
WP No. 15198 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF OCTOBER, 2024

BEFORE

THE HON'BLE MR JUSTICE M.I.ARUN

WRIT PETITION NO.15198 OF 2023 (T-IT)

BETWEEN:

1. MR. B MURALIDHAR
   AGED ABOUT 75 YEARS,
   R/AT NO.763, 14TH CROSS,
   J.P. NAGAR, 1ST PHASE,
   BANGALORE-560 078.

...PETITIONER

(BY SRI B. MURALIDHAR, ADVOCATE)

AND:

1. DEPUTY COMMISSIONER OF INCOME TAX (DCIT)
   CORPORATE CIRCLE-1 (1),
   ROOM NO.611, WANAPARTHY BLOCK,
   6TH FLOOR, AAYAKAR BHAVAN, 121,
   M.G. ROAD,
   NUNGAMBAKKAM,
   CHENNAI-600 034.

2. THE REGISTRAR OF COMPANIES (R.O.C)
   NO.7, 2ND FLOOR,
   KARUVADIKUPPAM MAIN ROAD,
   SETHAMARAI NAGAR,
   MUTHILPET, PUDUCHERRY-605 003.

...RESPONDENTS

(BY SRI M. DILIP, ADVOCATE FOR R.1;
NOTICE TO R.2 IS DISPENSED WITH VIDE
COURT ORDER DATED 06.10.2023.)

Digitally signed by CHAITHANYA K
Location: High Court of Karnataka

THIS PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR RECORDS PERTAINING TO THE ISSUANCE OF THE ORDER DATED 29.03.2023 BEARING DIN AND LETTER NO. ITBA/COM/F/17/2022-23/1051587111(1) ISSUED U/S.179 OF THE INCOME TAX ACT, 1961 AT ANNEXURE-Q, ISSUED BY THE RESPONDENT NO.1, ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THROUGH PHYSICAL HEARING/VIDEO CONFERENCING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE M.I.ARUN

ORAL ORDER

1. The petitioner in the instant writ petition is challenging the impugned order dated 29.03.2023 passed under Section 179 of the Income Tax Act, 1961 (for short 'the Act') by first respondent.

2. An order under Section 179 of the Act is passed as against the petitioner on the ground that he was one of the Director of an assessee Company - M/s.A and G Project and Technologies Limited. The case of the petitioner is that he was not the Director of the said Company during the relevant period and the said order has been passed erroneously.

3. Per contra, the learned counsel appearing for the respondent No.1 justifies the impugned order and prays for dismissal of the writ petition. He further submits that the impugned order is passed under Section 179 of the Act and the petitioner has an alternative and efficacious remedy under Section 264 of the said Act. On the said ground also, the respondent No.1 prays that the writ petition be dismissed.

4. Section 179 of the Act pertains to Liability of directors of private company in liquidation.

5. Section 264(1) of the Act reads as under:

> ***"Revision of other orders.***
>
> *264. (1) In the case of any order other than an order to which section 263 applies passed by an authority subordinate to him, the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit."*

6. Perusal of Section 264(1) of the Act shows that if a person is aggrieved by an order passed under Section 179 of the Act, they can prefer a revision against the said order and an alternative and efficacious remedy is provided for.

7. As the petitioner is having an alternative and efficacious remedy, the writ petition is hereby ***dismissed*** reserving liberty to the petitioner to approach the appropriate Authority in accordance with law. Further, if the petitioner prefers a revision, the Authority concerned shall take into consideration the time spent by him before this Court pursuing the instant writ petition, while condoning the delay if any, in preferring such revision.

Sd/-
(M.I.ARUN)
JUDGE

VMB
List No.: 1 Sl No.: 51