NC: 2024:KHC:4966
WP No. 17362 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF FEBRUARY, 2024

BEFORE

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

WRIT PETITION NO. 17362 OF 2023 (T-IT)

BETWEEN:

GMR AIRPORTS LIMITED
(A PUBLIC LIMITED COMPANY INCORPORATED
UNDER THE COMPANIES ACT 1956,
ON 6TH FEBRUARY 1992, ENGAGED IN THE
BUSINESS OF PROVIDING SPECIALISED
MANPOWER, MANAGEMENT SERVICES IN THE
AREAS OF PROJECT MANAGEMENT AND
OPERATION OF THE AIRPORT)
HAVING ITS ADDRESS AT NO 25/1,
SKIP HOUSE, MUSEUM ROAD,
BENGALURU 560 025.
REPRESENTED BY ITS DIRECTOR,
MR SRINIVAS BOMMIDALA,
AGED ABOUT 60 YEARS,

...PETITIONER

(BY SRI. BALRAM R RAO.,ADVOCATE)

Digitally signed by VANDANA S
Location: HIGH COURT OF KARNATAKA

AND:

1. DEPUTY COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE2(2)
CENTRAL REVENUE BUILDING,
QUEENS ROAD,
BANGALORE 560 001.

2. PRINCIPAL COMMISSIONER OF INCOME TAX CENTRAL
CENTRAL REVENUE BUILDING
3RD FLOOR, QUEENS ROAD,
BANGALORE 560 001.

...RESPONDENTS

(BY SRI.RAVIRAJ Y.V .,ADVOCATE)

THIS W.P IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA CALLING FOR THE RECORDS OF THE PETITIONERS CASE AND AFTER EXAMINING THE LEGALITY AND VALIDITY THEREOF BE PLEASED TO QUASH AND SET ASIDE THE IMPUGNED NOTICE U/S 148A(B) OF THE INCOME TAX ACT DTD 24TH FEBRUARY 2023 IN NOTICE AND DIN NO.ITBA/AST/F/148A(SCN)/2022-23/1050115277(1) ANNX-E ISSUED BY THE R-1, NOTICE DTD 31ST MARCH 2023 U/S 148A(D) OF THE ACT IN NOTICE AND DIN NO.ITBA/AST/S/148-1/2022-23/1051813688(1) ANNX-H ISSUED BY THE R-1, THE IMPUGNED ORDER DTD 31ST MARCH 2023 U/S 148A(D) OF THE ACT IN DIN NO.ITBA/AST/F/148A/2022-23/1051809543(1) ANNX-G PASSED BY THE R-1 AND THE IMPUGNED NOTICE DTD 10TH JULY 2023 UNDER SEC 143(2) OF THE ACT IN DIN NO.ITBA/AST/F/143(2)-4/2023-24/1054259813(1) ANNX-J ISSUED BY THE R-1, AND ETC.

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

ORDER

In this petition, petitioner has sought for the following reliefs:-

"(i) Issue a Writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ, order or direction under Article 226 of the constitution of India calling for the records of the Petitioner's case and after examining the legality and validity thereof be pleased to quash and set aside the impugned notice U/s. 148A(b) of the Income Tax Act dated: 24th February 2023 IN Notice and DIN No.ITBA/AST/F/148A(SCN)/2022-231050115277(1) (Annexure-E) issued by the Respondent No.1, notice dated: 31st March 2023 under Section 148A(d) of the Act in Notice

and DIN No. ITBA/AST/S/148-1/2022-23/1051813688(1) (Annexure-H) issued by the Respondent No.1, the impugned order dated: 31st March under Section 148A(d) of the Act in DIN No. ITBA/AST/F/148A/2022-23/1051809543(1) (Annexure-G) passed by the Respondent No.1 and the impugned notice dated 10th July 2023 under section 143(2) of the Act in DIN No. ITBA/AST/F/143(2) _4/2023-24/1054259813(1) (Annexure-J) issued by the Respondent No.1, and

(ii) A Writ of Mandamus or a Writ in the nature of Mandamus, or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India ordering and directing the Respondents by themselves, their subordinate, servants and agents to withdraw and cancel the impugned notice U/s 148 (b) of the Income Tax Act dated 24th February 2023 in Notice and DIN No.ITBA/AST/F/148A(SCN)/2022-23/1050115277(1) (ANNEXURE-E) issued by the Respondent N.1 notice dated 31st March 2023 under section 148A(d) of the Act in DIN No.ITBA/AST/S/148-1/022-23/1051809543(1) (Annexure-G) passed by the Respondent No.1 and the impugned notice dated 10th July 2023 under section 143(2) of the Act in DIN No.ITBA/AST/F/143(2)-4/2023-24/1054259813(1) (Annexure-J) issued by the Respondent No.1

(iii) A Writ of Mandamus or a Writ in the nature of Mandamus, or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India prohibiting and restraining the Respondents by themselves, their subordinate, servants and agents from taking any action in

furtherance of consequent to the impugned notice U/s 148 (b) of the Income Tax Act dated 24th February 2023 in Notice and DIN No.ITBA/AST/F/148A(SCN)/2022-23/1050115277(1) (ANNEXURE-E) issued by the Respondent N.1 notice dated 31st March 2023 under section 148A(d) of the Act in DIN No.ITBA/AST/S/148-1/022-23/1051813688(1) (Annexure-H) issued by the Respondent No.1, the impugned order dated 31st March 2023 under section 148(A) of the Act in DIN No.ITBA/AST/F/148A/2022-23/1051809543(1) Annexure-G passed by the Respondent No.1 and the impugned notice dated 10th July 2023 under section 143(2) of the Act in DIN No.ITBA/AST/F/143(2)-4/2023-24/1054259813(1) (Annexure-J) issued by the Respondent No.1, and

(iv) Grant the interim relief in terms of prayer (III) above, and

(v) Issue such other order, writ or direction as this Hon'ble Court deems fit; and

(vi) Direct the Respondents to pay the costs of this Writ Petition."

2. Heard learned counsel for the petitioner as well as learned counsel for the respondent and perused the material on record.

3. In addition to reiterating the various contentions urged in the petition and referring to the material on record, learned Senior counsel for the petitioner invited my attention to the Notice dated

24.02.2023 issued by the 1st respondent under Section 148A(b) of the Income Tax Act, 1961 (for short 'the I.T.Act') in order to point out that the petitioner submitted its response / objections to the said Notice by way of a detailed reply along with the documents on 24.03.2023 . It is submitted that despite the aforesaid detailed reply submitted by the petitioner along with the documents, the respondents have proceeded to pass the impugned order under Section 148A(d) of the I.T.Act on 31.03.2023 without considering or appreciating the said response / reply submitted by the petitioner. It is also submitted that pursuant to the said order, the 1st respondent has issued a Notice under Section 148 of the I.T.Act and as such, the petitioner is before this Court by way of the present petition.

3.1 Learned Senior counsel also submits that in its reply / response dated 24.03.2023, the petitioner has brought to the notice of the respondents that in respect of the previous assessment years viz., 2016-17, 2017-18 and 2018-19, the petitioner had filed appeals which are pending before the Appellate Authority and the result / outcome of the said appeals would have a direct impact / bearing on the jurisdiction of the respondents to issue Notice under Section 148A(b) and it was necessary that before further proceedings could be continued by the respondents, it would have

to necessarily await the final outcome / result of the said appeals, which is yet another circumstance which would vitiate the impugned order.

4. Per contra, learned counsel for the respondents would submit that there is no merit in the petition and the same is liable to be dismissed. It is however submitted that the respondents have no objection for the appellate authority to be directed to dispose of the appeals in respect of the earlier assessment years within a stipulated timeframe.

5. I have given my anxious consideration to the rival submissions and perused the material on record.

6. As rightly contended by the learned Senior counsel for the petitioner, a perusal of the impugned order dated 31.03.2023 passed under Section 148A(b) of the I.T.Act will indicate that the detailed response / reply dated 24.03.2023 submitted by the petitioner has not been considered or appreciated by the respondents, which is sufficient to vitiate the impugned order. Under these circumstances, I am of the considered opinion that non-consideration of the aforesaid reply / response of the petitioner, by passing the impugned unreasoned and non-speaking

order, is violative of principles of natural justice and on this ground alone, the impugned order is liable to be set aside and the matter be remitted back to the respondents for reconsideration afresh in accordance with law. However, since the petitioner – the assessee whose appeals in relation to the previous assessment years are pending before the appellate authority, necessary directions will have to be issued to the appellate authority to dispose of the said appeals within a stipulated timeframe, pursuant to which, the respondents can be directed to reconsider the matter afresh in accordance with law.

6. In the result, I pass the following:-

ORDER

(i) Petition is hereby allowed.

(ii) The impugned order dated 31.03.2023 passed by the 1st respondent under Section 148A(b) and Section 148 of the I.T.Act at Annexures – G and H respectively are hereby set aside.

(iii) The matter is remitted back to the respondents for reconsideration afresh in accordance with law.

(iv) Liberty is reserved in favour of the petitioner to submit additional pleadings, documents etc., to the respondents, who shall consider the same and proceeded further in accordance with law.

(v) The appellate authority before whom the appeals filed by the petitioner in relation to the assessment years 2016-17, 2017-18 and 2018-19 are pending, is directed to dispose of the same within a period of three months from the date of receipt of a copy of this order.

(vi) It is further directed that the respondents shall take up the present matter and proceed from the stage of issuing Notice under Section 148A(b) of the I.T.Act only after disposal of the appeals by the appellate authority referred to supra.

Sd/-
JUDGE

Srl.