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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.134 OF 2024

KUNDIL REALTY PRIVATE LIMITED
THR. DIRECTOR, IVEN ISABEL
ASSUNCAO BOTELHO ... PETITIONER
Versus
PRINCIPAL COMMISSIONER INCOME TAX
DEPARTMENT ... RESPONDENT

Ms Asha A. Desai with Ms Natasha Volvoikar, Advocate for the Petitioner.

CORAM:- M. S. SONAK &
VALMIKI SA MENEZES, JJ.

DATED :- 6th February, 2024

P.C.:

Heard Ms Asha Desai for the petitioner.

2. The challenge in this petition is to the assessment order dated 21.03.2023 and the demand notices raised upon the petitioner based upon such assessment order.

3. Ms Desai, learned Counsel for the petitioner, agrees that the petitioner has remedy of an appeal against the assessment order. However, she submits that this is a case where Section 148-A notice was issued to the petitioner on the earlier address. She submits that therefore the petitioner could not avail of any opportunity before the

Assessing Officer. She says that issuing notice at the old address is as good as issuing no notice at all and, therefore, this Court should entertain the present petition.

4. Ms Desai states that the impugned demand notices require the petitioner to deposit 20% of the assessed amount. She submits that if the bank statements of the petitioners are perused, it would be evident that the returns originally filed by the petitioner were correct and no income had escaped assessment.

5. We have considered Ms Desai's submissions. Since the petitioner has an alternate and efficacious remedy available under the Act, there is no reason to entertain this petition. There is no clarity on whether the petitioner had ever intimated the taxing authorities about the change of address. Therefore, this is not a clear case of no notice and it would be appropriate if the appellate authority examines the factual aspects and decides the matter one way or the other. The contention about no notice or no adequate notice is however kept open. The contentions on merits are also kept open.

6. For the above reasons, this petition is not entertained but liberty is granted to the petitioner to avail of the alternate remedy available under the Income Tax Act. All contentions of all parties are expressly left open for determination by the appellate authority should the petitioner resort to the remedy of appeal.

7. This petition is disposed of with liberty in the above terms. There shall be no order for costs. All concerned to act on the authenticated copy of this order.

VALMIKI SA MENEZES, J. **M. S. SONAK, J.**

NITI K HALDANKAR
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