# IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## CIVIL APPELLATE JURISDICTION

## WRIT PETITION NO. 1743 OF 2024

Maratha Vidya Prasarak Samaj **…Petitioner**
*Versus*
Deputy Director of Income Tax, CPC, Bengaluru
& Ors. **…Respondents**

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Mr. Devendra Jain, i/b. Ms. Radha Halbe, for Petitioner.
Mr. Suresh Kumar, for Respondents-Revenue.

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**CORAM: K. R. SHRIRAM &**
**DR. NEELA GOKHALE, JJ.**
**DATED: 22nd February 2024**

**PC:-**

1. Mr. Jain, at the outset, states the resolution as directed in this Court's order dated 12th February 2024 has been filed online and also tenders physical copy for Court's address.

2 Petitioner is a trust registered under the Bombay Public Trust Act, 1950 and under the Societies Registration Act, 1860. Petitioner runs several educational institutions and gets grants from the Government.

3. Petitioner is challenging the intimation dated 18th December 2023 issued under Section 143(1) of the Income Tax Act, 1961 ("**the Act**"). According to Petitioner, the intimation is bad in law because the entire exemption claimed by Petitioner under Section 11 of the

Act has been denied and total income is computed at Rs.676,70,25,818/-. According to Petitioner, even the credit for tax deducted at source amounting to Rs.1,92,49,542/- has been denied. Mr. Jain submitted that the intimation does not even state the reason for denying the claim under Section 11 of the Act.

4. Petitioner, prior to receiving the intimation under Section 143(1) of the Act, had received a notice under Section 143(2) of the Act for a proposed detailed scrutiny under Section 143(3) of the Act. Mr. Jain submits that the Petitioner's apprehension is the scrutiny assessment will proceed without giving Petitioner an opportunity to explain that the computation of total income at Rs.676,70,25,818/- as reflected in the intimation under Section 143(1) of the Act was wrong or for that matter the credit for TDS at Rs.1,92,49,542/- has to be given.

5. Mr. Suresh Kumar states, during scrutiny assessment under Section 143(3) of the Act, in view of the notice issued under Section 143(2) to Petitioner, Petitioner will be called upon to file necessary documents and make submissions. Mr. Suresh Kumar further states that before passing a final order assessment order under Section 143(3) of the Act, Petitioner will be heard and Petitioner can explain to the Assessing Officer ("**AO**") that it is entitled to exemption under Section 11 of the Act and also credit for TDS as alleged in the

petition. Mr. Suresh Kumar states that the AO after hearing Petitioner will pass order in accordance with law. Therefore, this Court should not grant the prayers as prayed for in the petition.

6. In view of the statements made by Mr. Suresh Kumar, we do not wish to grant the relief as prayed for, in the petition.

7. We would, however, direct the Assessing Officer to give a personal hearing to Petitioner and also permit Petitioner to file necessary documents and then pass order in accordance with law. We clarify we have not made any observation on the merits of the matter.

8. In Paragraph 4.6 of the petition, Petitioner has disclosed having filed an appeal before the Commissioner of Income Tax (Appeals) (“**CIT(A)**”) under Section 246A of the Act against the impugned intimation issued by Respondent No.1 under Section 143(1) of the Act. Petitioner may apply to the CIT (A) for expeditious hearing of the stay application as well as appeal and the CIT(A) may consider the application. Until the disposal of the stay application or 31st March 2024, whichever is earlier, no coercive steps shall be taken to recover the amount mentioned in the intimation under Section 143(1) of the Act.We would once again clarify that we have not considered the matter on merits or given any opinion on Petitioner’s contention that it is entitled to exemption under Section 11 of the Act.

9. Petition disposed.

**(DR. NEELA GOKHALE, J.)** **(K. R. SHRIRAM, J.)**