IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3957 OF 2022

Godavari Biorefineries Ltd. **...Petitioner**
Versus
The Assistant Commissioner of Income Tax,
Circle 2(1)(1), Mumbai & Ors. **....Respondents**

Mr. Dinkle Hariya, with Ms. Rashmi Vyas, for Petitioner.
Mr. Suresh Kumar, for Respondents-Revenue.

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

PC:-

1. Petitioner had filed its return of income for Assessment Year 2013-14 declaring a total loss of Rs.12,34,56,525/-. The assessment proceedings under Section 143(3) of the Income Tax Act, 1961 ("**the Act**") was completed on 30th December 2016.

2. Petitioner, thereafter received a notice dated 31st March 2021 under Section 148 of the Act. The reason to believe reads as under:

> *"2. A search action u/s 132 of the Act is carried out in the case of M/s Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. (SRMUCS, PAN-AADAS7782D) and there found huge money deposited in the bank accounts maintained in the society. The modus operandi of SRMUCS is accepting large cash deposit through multiple channels, thereafter transferred these amount to various beneficiary entities through RTGS/other banking modes to various non-genuine entities. It is pertinent to say that the beneficiary may have received money not only from SRMUCS but also from other bogus companies as well as other co-operative societies. One of the assessee M/s Godavari Biorefineries Ltd is a beneficial whose account was credited by Rs.64,17,550/- during F.Y*

> *2012-13 through banking channel. The assessee M/s Godavari Biorefineries Ltd has received the amount from SRMUCS which has origin in the cash deposited under various accounts. Since, SRMUCS was engaged in non- genuine cash deposits and further transfers of amounts having nature of unaccounted income, the amounts received by assessee are not from the accounted sources.*
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> *3. On the basis of the tangible material received from ADIT (Inv.), Bhavnagar, it is seen that, M/s Godavari Biorefineries Ltd has not truly and fully disclosed all material facts in its return of income (ROI). Considering the information, above mentioned transactions are found to be non-genuine.*
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> *4. Therefore, I have reason to believe that income chargeable to tax amounting to Rs.64,17,550/- has escaped assessment for A.Y. 2013-14 within the meaning of section 147 of the Act."*

3. Petitioner has been repeatedly calling upon Respondents to provide copies of documents based on which it is alleged that Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. ("**SRMUCS**") had deposited a huge amount in its bank accounts and those amounts were transferred to various beneficiaries entities/non-genuine entities through banking modes and Petitioner was one of the beneficiaries of a sum of Rs.64,17,550/- for the relevant assessment year.

4. Ms. Hariya states and it is also alleged in the Petition that none of these details have been provided.

5. Mr. Suresh Kumar states in the affidavit in reply an excel sheet has been reproduced giving the details. In our view, it does not help. The excel sheet does not answer the basic ground of Petitioner that it

did not have bank account with SRMUCS and it also does not answer Petitioner's stand that it did not have any banking relationship with SRMUCS and had not deposited any cash for facilitating any thing.

6. Even the break up of the amount of Rs.64,17,550/- or the name of the parties have been provided to Petitioner. Notwithstanding Petitioner requesting the Assessing Officer ("**AO**") to provide these details, the same has not been provided. Instead, an order rejecting the objections dated 15th February 2022 has been passed which is impugned in this petition.

7. In our view, such an order cannot be sustained because Petitioner has not been provided the documents based on which an allegation is made that Petitioner was a beneficiary to the largest from SRMUCS.

8. In the circumstances, the order dated 15th February 2022 is hereby quashed and set aside.

9. Respondents are directed to provide within two weeks from today all documents including the statements relying upon which the reason to believe escapement of income has been arrived at. Petitioner shall also be provided the details as to how Respondents have arrived at the figure of Rs.64,17,550/-. Within two weeks of receiving the same, Petitioner shall supplement the reply already filed. Thereafter the proceedings shall be completed on or before 31st

May 2024. Petitioner shall be given a personal hearing, notice whereof shall be communicated at least five working days in advance and the order to be passed shall be a reasoned order dealing with all objections of Petitioner.

10. Petition disposed.

11. All rights and contentions are kept open.

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