IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3693 OF 2024

Kiranakart Technologies Pvt. Ltd. ...Petitioner

Versus

Union of India & Ors ...Respondents

Mr. Percy Pardiwalla, Senior Advocate, a/w Kishore Kunal, i/b Sushanth Murthy, for the Petitioner.

Mr. Mahesh Rajpopat, a/w Akshit Kothari, for Respondents.

CORAM : G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

DATE : SEPTEMBER 09, 2024

PC :

1. We have heard Mr. Pardiwalla, learned senior Counsel for the Petitioner and Mr. Rajpopat, learned Counsel for the Respondent-Revenue on the present proceeding.

2. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:-

> *A. issue a writ of Certiorari or a writ in the nature of certiorari calling for the papers pertaining to this matter and after going into the validity thereof to quash and set aside the impugned order dated 02.05.2024 (Exhibit- "A" hereto) passed by the Deputy Commissioner of Income Tax;*
>
> *B. issue a writ of mandamus or a writ in the nature of mandamus*

ASHWINI JANARDAN VALLAKATI Digitally signed by ASHWINI JANARDAN VALLAKATI Date: 2024.09.12 14:50:57 +0530

or any other appropriate writ order or direction ordering and directing the Respondents to grant NIL deduction certificate for FY 2024-25;

C. issue a writ of prohibition or a writ in the nature of prohibition or any ther appropriate writ order or direction restraining the Respondents from acting in furtherance of or giving effect to the impugned order dated 02.05.2024 (Exhibit- "A" hereto) passed by the Deputy Commissioner of Income Tax;

D. pending the hearing and final disposal of the petition, restrain the Respondents from acting in furtherance of or giving effect to the impugned order dated 02.05.2024 (Exhibit- "A" hereto) passed by the Deputy Commissioner of Income Tax;

E. Ad-interim relief in terms of prayer clause D above;

F. for costs

3. The grievance of the petitioner on the impugned order dated 2 May, 2024 passed on the petitioner's application under Section 197 of the Income-tax Act, 1961 (for short "***the Act***"), is to the effect that a certificate allowing nil deduction of tax has not been granted to the petitioner which was in fact the prayer of the petitioner. It is contended that what has been granted to the petitioner by the impugned order is a Lower Deduction certificate being issued at 2% for receipts under Section 194A and at 1% for receipts under Section 194C of the Act as set out in Form-13.

4. Considering the nature of the impugned order passed, we are

of the opinion that it is not the case that no relief has been granted to the petitioner. In fact partial relief has been granted on allowing of the petitioner's application for Lower Deduction certificate as noted by us hereinbefore.

5. In this view of the matter, we are of the opinion that it would be appropriate that if the petitioner intends to make a claim for a Lower Deduction certificate at a nil rate, it would be a further relief being prayed for, from what has already been granted to the petitioner. In these circumstances, it would be open to the petitioner to make a fresh application under Section 197 read with Section 28 of the Act in Form-13 to the Assessing Officer, claiming such a relief of issuance of a certificate at a nil rate.

6. Mr. Pardiwalla has fairly stated that such an application can be made by the petitioner within a period of two weeks from today. If such application is accordingly made, the same be decided on its merits and in accordance with law within a period of four weeks from the making of such application. Let the order to be passed on such application, be a reasoned one, as also the same be communicated to the petitioner.

7. All contentions of the parties on the petitioner's fresh application are expressly kept open. Needless to observe that such application shall be without prejudice to the rights and contentions of the petitioner qua the impugned order dated 2 May, 2024.

8. The petition stands disposed of in the aforesaid terms. No costs.

[SOMASEKHAR SUNDARESAN, J.] **[G. S. KULKARNI, J.]**

Ashwini Vallakati