BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.10255 of 2024
and
W.M.P.(MD) Nos.9221 and 9223 of 2024

Dr.V.Krishnamurthy Educational Foundation,
represented by its Secretary,
Mr.N.Raghunathan, ... Petitioner

/vs./

1.The Assistant Commissioner of Income Tax – Exemptions,
May Flower, Mid City Building,
1510, Trichy Road,
Coimbatore 641 018.

2.Commissioner of Income Tax – Exemptions,
No.121, M.G.Road,
Nungambakkam,
Chennai 34. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records on the file of the 1st Respondent in PAN.No.AABTA3992J and quash the impugned order in ITBA/AST/f/148A/2023-24/1061508076(1) dated 26.02.2024 passed under clause (d) of section 148A of the Income Tax Act, 1961 and the consequential

Impugned notice issued under section 148 of the Act in ITBA/AST/S/148-1/2023-24/1061514731(1) dated 26.02.2024 for the Assessment Year 2020-21 as illegal and without jurisdiction.

For Petitioner : Mr.R.Sivaraman

For Respondents : Mr.N.Dilip Kumar Senior Panel Counsel
assisted by Mr.K.Prabhu
Junior Panel Counsel

ORDER

Mr.N.Dilip Kumar, assisted by Mr.K.Prabhu, Junior Panel Counsel takes notice for the respondents.

2.The petitioner claims that the petitioner's institution was registered as a Society under the provisions of the Tamil Nadu Societies Registration Act, 1975 as M/S.Academy of Higher Education in the year 2004. Later, the petitioner's institution's name was changed to its present name, namely Dr.V.Krishnamurthy Educational Foundation. To this effect, suitable amendment to the certificate of registration under Section 11(1) of the Registration Act, 1975 has been issued to the petitioner as of 09.06.2017.

3.The learned counsel for the petitioner would further submit that from the year 2017 onwards, all the returns have been filed. It is submitted that the income tax registration and Pan number that was issued in the name of Academy of Higher Education was as a Trust and therefore, a difficulty arose for utilization of the old Pan given to Academy of Higher Education, namely AABTA3992J and therefore, the petitioner obtained a fresh Pan number from the Income Tax Department and thereafter, the petitioner has been filing regular returns with the new Pan number, namely AADAD6245N in the name of Dr.V.Krishnamurthy Educational Foundation, National College.

4.It is further submitted that some of the bank accounts however continued to have old Pan number and therefore, the Department has wrongly invoked the provisions of Section 148A(b) of the Income Tax Act, 1961 as amended with effect from 01.04.2021.

5.It is further submitted that even for the assessment year 2019-20, the petitioner had faced similar problem and therefore, the petitioner approached this

Court in W.P.(MD) No.8172 of 2023 and has secured an interim order from this Court on 19.06.2023.

6.The learned counsel for the petitioner would further submit that the impugned proceeding under the old Pan is unwarranted, as all the amounts have been taxed under the new Pan after 2017 (the assessment year 2018-19).

7.This writ petition is opposed by the learned Standing Counsel for the respondents by drawing attention to the response of the petitioner to the notice dated 04.01.2024 issued to the petitioner under Section 148A(b) of the Income Tax Act, 1961, vide response dated 18.01.2024, 31.01.2024 and 10.02.2024.

8.It is submitted that despite taking time to furnish the documents as was undertaken by the petitioner in their response dated 18.01.2024 and 31.01.2024, the petitioner has not come forward to furnish any reply and therefore, the impugned order has been passed under Section 148A(d) of the Income Tax Act, 1961. He therefore submits that the present writ petition is liable to be dismissed.

9.In any event, it is submitted that since the notice under Section 148A of the Income Tax Act, 1961 was issued the petitioner may furnish all the documents, which the petitioner had undertaken to furnish in their response dated 18.01.2024, 31.01.2024. Hence, he prays for dismissal of this writ petition.

10.Having considered the submissions made by the learned counsel for the petitioner and the learned Standing Counsel for the respondents, *prima facie* I am of the view that it was a responsibility of the petitioner to have made suitable changes with the Bank, as the bank continued to have the Pan number that was given to the petitioner in the petitioner's former name, namely M/S.Academy of Higher Education. Mere filing of the return for the assessment year is not sufficient. Although, the information sought for can be retrieved internally by the Income Tax Department as to whether the statement of the petitioner is true or not, nothing precluded the petitioner from furnishing the records, which accompanied the returns that were filed by the petitioner in the new Pan number, AADAD6245N in its present name, pursuant to the changes made in the name.

11.Considering the same, I am inclined to give a temporary reprieve to the petitioner by setting aside the impugned order by remitting the case back to the first respondent to pass a fresh order on merits and in accordance with law within a period of 60 days from the date of receipt of a copy of this order subject to the petitioner furnishing all the informations including the returns filed with the new Pan number for the respective assessment years together with all the documents that are required for completing the assessment.

12.Subject to such compliance, the first respondent shall pass a fresh order on merits and in accordance with law within a period of 60 days thereafter. In case, the petitioner fails to co-operate with the first respondent, the first respondent is at liberty to pass a fresh order on merits and in accordance with law based on the available materials.

13.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No **25.04.2024**
Internet : Yes / No

C.SARAVANAN, J.

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