HC-KAR
CNR: KAHC010680152026

NC: 2026:KHC:56038
WP No. 31070 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 31070 OF 2026 (T-IT)

BETWEEN:

SRI.NIMISHAMBA DEVASTHANA
REPRESENTED BY IT'S
EXECUTIVE OFFICER H S MAHESH
GANJAM SRIRANGAPATNA TALUKU,
MANDYA, KARNATAKA 571438

...PETITIONER

(BY SMT. POORNIMA H S.,ADVOCATE)

AND:

1. THE INCOME TAX OFFICER
WARD 1 AND TPS,
MANDYA KARNATAKA - 571438.

2. COMMISSIONER OF INCOME TAX
(EXEMPTIONS) 6TH FLOOR,
UNITY BUILDING ANNEX,
P. KALINGA ROAD,
BENGALURU-560027.

...RESPONDENTS

(BY SRI.M. THIRUMALESH., ADVOCATE A/W
SRI. NIRMAL MATHEW., ADVOCATE)

Digitally signed by VANAMALA N
Location: HIGH COURT OF KARNATAKA

CNR: KAHC010680152026

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A. QUASH AND SET-ASIDE ASSESSMENT ORDER PASSED FOR THE ASSESSMENT YEAR 2017-18 BEARING NO. ITBA/AST/S/147/2024-25/1074671983(1) DATED 18/03/2025 VIDE ANNEXURE-A; B. QUASH AND SET-ASIDE ASSESSMENT ORDER PASSED FOR THE ASSESSMENT YEAR 2020-21 BEARING NO. ITBA/AST/S/147/2024-25/1074650941(1) DATED 18/03/2025 VIDE ANNEXURE-B; C. DIRECT THE RESPONDENT NO. 2 TO GRANT RETROSPECTIVE REGISTRATION UNDER SEC 12A AND GRANT CERTIFICATE OF REGISTRATION UNDER SEC 12AA OF THE IT ACT, WITH RETROSPECTIVE EFFECT FROM THE DATE OF GAZETTE NOTIFICATION BEING 29/9/2012 AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner asserts that it is a *'Trust'* overseeing the affairs of a Temple in Ganjam, Srirangapatna Taluk, Mandya District, but there is no doubt that this Temple is an old temple which, over the years, has grown to be one of the many religious destinations in this part of the State. The petitioner's grievance is with the Assessment Orders dated 18.03.2025 [*Annexures-A and B*]. The Assessment Order [*as per Annexure-A*] is for the Assessment Year 2017-18, and the Assessment Order [*as per Annexure-B*] is for the Assessment Year 2020-21.

2. The petitioner also seeks direction to the second respondent to grant retrospective registration under Section 12A of the Income Tax Act, 1961[for short, *'the Act'*] with a Certificate of Registration under Section 12AA of the Act with retrospective effect from the date of the Notification dated

29.09.2012 issued by the State Government under the Karnataka Hindu Religious and Charitable Endowments Act, 1997 [for short, *'the Karnataka Act'*]. The impugned Assessment Orders essentially are *ex-parte* Orders with the petitioner having not participated in the proceedings.

3. Ms. Poornima H. S., the learned counsel for the petitioner, submits that the petitioner is entirely a religious and charitable trust whose only sources of income are from ***[a]*** the donations made in the *hundi*, ***[b]*** the cash receipts received for the different *sevas* requested by the devotees who visit the Temple and ***[c]*** the interest earned from the amounts deposited after deducting expenses in maintaining the affairs of the Temple. The learned counsel argues that the petitioner, who has not applied for registration under Section 12A of the Act immediately upon being notified as a religious and charitable entity with the notification under the

Karnataka Act, is entitled for the registration under Section 12A of the Act effective from that date because of the petitioner's activities and that the petitioner can canvass successfully for a direction in this regard based on the doctrine of *substance over form*. The learned counsel proposes to elaborate on this doctrine and the application thereof to the facts of the case.

4. Mr. M. Thirumalesh and Mr. Nirmal Mathew, a learned Senior Standing Counsel/standing counsel who accept notice for the first respondent, and Mr. Aravind V. Chavan, a learned Standing Counsel who accepts notice for the second respondent, are heard for the disposal of the petition examining the following questions.

> ***[i]*** *Whether the petitioner must also have an opportunity to approach the second respondent with an application for registration under Section 12A of the Act*

effective from the date of the Notification under the Karnataka Act.

[ii] *Whether this Court must interfere with the Assessment Orders with opportunity to the petitioner to produce documents to substantiate its case on facts.*

This Court has also considered whether the petitioner must be extended an opportunity to apply on the *online* module for registration under Section 12A of the Act for the period from the date of the application and place the outcome of such application for consideration of the request for registration effective from the date of the Notification under the Karnataka Act.

5. Mr. M. Thirumalesh and Mr. Nirmal Mathew, on the petitioner's request for registration under Section 12A of the Act, submit that the petitioner would be entitled to file an application on the *online* module through its Chartered Accountant

for registration under Section 12A of the Act, and if such application is filed, despite the impugned orders and the proceedings that could be, the same would be considered effective from the date of the application. On the petitioner's request for registration with effect from the date of the Notification under the Karnataka Act, the learned Standing Counsels submit that the petitioner can file an application with the second respondent placing on record all documents to justify its case that it is entitled for such registration and that the second respondent will consider such application notwithstanding the impugned assessment orders or the proceedings for framing assessments but in accordance with law examining the expanse of the *doctrine of substance over form* and its applicability to the present proceedings.

6. Mr. M. Thirumalesh and Mr. Nirmal Mathew, on the petitioner being extended another

opportunity to show cause against the proposed assessment under Section 147 of the Act, submit that the petitioner has been served with the initial notices but not with the later notices and this Court may consider extending an opportunity to the petitioner to file documents and also rely upon the outcome on any application that the petitioner may file with the second respondent for registration under Section 12A of the Act effective from the date of Notification under the Karnataka Act.

7. However, the learned Standing Counsels submit that this Court must ensure that the Revenue is not prejudiced on the score that the proceedings are not completed within the time under Section 153 of the Act as would apply if there is any adjournment in or deferment of the restored proceedings because the petitioner insists on the outcome of the

application that could be filed with the second respondent as aforesaid.

8. In response, Ms. Poornima H.S., submits that if this Court restores the proceedings for reconsideration with liberty to apply on the *online* module with the second respondent for registration under Section 12A of the Act effective from the date of the Notification under the Karnataka Act and there is any deferment or adjournment because of the pending application, the petitioner will waive the right to call in question the adjudication proceedings that could be on the ground of the timelines contemplated under Section 153 of the Act.

9. This Court has also heard Ms. Poornima H.S., Mr. M. Thirumalesh and Mr. Aravind V. Chavan/Nirmal Mathew on whether this Court, if persuaded to interfere with the assessment proceedings, could issue any direction for the

completion of the assessment proceedings by the jurisdictional Assessing Officer based on an order for transfer under Section 144B[8] of the Act. The learned counsels emphasize that this provision enables the concerned to transfer the case to the Assessing Officer having jurisdiction only with the prior approval of the Board and that the Board would consider granting such approval, if there is an application, upon consideration of all facts and circumstances.

10. The aforesaid circumstances and the submissions are considered. The petitioner must have an opportunity to show cause against the *ex parte* Assessment Orders with opportunity to file Returns in response to the Notice under Section 148 of the Act corresponding to each of the assessment years not only because of the impugned assessment orders are *ex-parte* and the assertions such as that it is a notified charitable temple under the Karnataka

Act and that its cash receipts are only Hundi Collections and *Seva* receipts but also because of the undisputed fact that if these receipts for the assessment years 2017-18 and 2020-21 are now brought to tax under the impugned Assessment Orders the similar receipts in the intervening assessment years are not brought to tax.

11. This Court is also of the view that the petitioner cannot be foreclosed the opportunity of approaching the second respondent with an application for registration effective from the date of the Notification under the Karnataka Act relying upon all circumstances and documents including its books of accounts from that year. If indeed the second respondent is persuaded in the facts and in the light of the books of accounts and the legal proposition canvassed, that should also be available before the assessments are framed for these two Assessment years [2017-18 & 2020-21] by the

Jurisdictional Assessing Officer or under Section 144B of the Act by the Assessing Unit.

12. This Court also observes that the petitioner, without prejudice to the restored proceedings and the application with the second respondent for registration under Section 12A of the Act effective from the date of the notification under the request, must be at liberty to file an application on the *online* module through its Chartered Accountant for registration under Section 12A of the Act prospective from the date of such application. Further, the petitioner must also be reserved with liberty to file an application with the Board for transfer of the proceedings to the Jurisdictional Assessing Officer. In the light of the afore, the following.

ORDER

[A] The petition is allowed-in-part quashing the Assessment Orders dated

18.03.2025 [*Annexures-A and B*] with opportunity to the petitioner to file Returns relevant to these years in response to the Notice under Section 148 of the Act relevant to each of these years as enabled by the first respondent consequent to this order.

[B] The petitioner is reserved with liberty to approach the second respondent for registration under Section 12A of the Act effective from the date of the Notification under the Karnataka Act observing that the petitioner, if there is a favourable consideration, must be at liberty to place it on record for due consideration in the assessment proceedings.

[C] The petitioner will also be at liberty to file an application *online* for registration under Section 12A of the Act for the period from the date of the application.

[D] It is needless to observe that if there is any deferment in the proceedings, awaiting the outcome on the petitioner's application with the second respondent, the petitioner shall be held to the undertaking before this Court that there shall be waiver of such defense based on the limitation.

Sd/-
(B M SHYAM PRASAD)
JUDGE

AN/-