HC-KAR

**IN THE HIGH COURT OF KARNATAKA,
AT DHARWAD**

R

DATED THIS THE 26TH DAY OF SEPTEMBER, 2025

**BEFORE
THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ**

WRIT PETITION NO.107184 OF 2025 (T-RES)

BETWEEN:

SHRI NARA SURYANARAYANA REDDY
S/O. LATE GOWRANNA,
AGE: 70 YEARS, R/O. 21/2, SURYA NIVAS,
2ND CROSS, NEHRU COLONY, GANDHINAGARA,
BALLARI, DIST. BALLARI-583101.

...PETITIONER

(BY SRI. GANGADHAR J.M, ADVOCATE)

AND:

1. INITIATING OFFICER
DEPUTY COMMISSIONER OF INCOME TAX
(BENAMI PROHIBITION), TRI STAR BUILDING,
2ND AND 3RD FLOOR, EDC COMPLEX,
PATTO PLAZA, PANAJI, GOA-403001.

2. OFFICE OF THE COMPETENT AUTHORITY/
ADJUDICATING AUTHORITY UNDER THE
PROHIBITION OF BENAMI PROPERTY
TRANSACTIONS ACT, 1988,
ROOM NO.327, 3RD FLOOR,
PRATISHATH BHAVAN,
OLD C.G.O. BUILDING,
M.K. ROAD, CHURCH GATE, MUMBAI-400020.

3. THE ASSISTANT COMMISSIONER
OF INCOME TAX, BPU PANAJI, ROOM,

NO. 6TH FLOOR,
BAGMANE BUILDING,
NEAR PASSPORT OFFICE,
PATTO PANAJI, GOA-403001.

…RESPONDENTS

(BY SRI. M. THIRUMALESH AND
SMT. D. ROOPA, ADVOCATES)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO;

A) ISSUE A WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED ORDER DATED. 30.07.2025 BEARING NO.DIN AND LETTER NO.ITBA/COM/F/17/ 2025-26/1079090630(1) PASSED BY THE RESPONDENT NO.1 VIDE ANNEXURE-C, IN SO FAR AS PETITIONER IS CONCERNED.;

B) ISSUE A WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIORARI TO QUASH THE NOTICE DATED 26.08.2025 BEARING CASE NO.PBPTA/FR/177/MUM/2025/2121, ISSUED BY THE RESPONDENT NO.2 VIDE ANNEXURE-D, IN SO FAR AS PETITIONER IS CONCERNED.

C) PASS ANY OTHER ORDER, WHICH THIS HON BLE COURT MAY DEEM FIT, INCLUDING THE COST OF THE WRIT PETITION IN THE INTEREST OF JUSTICE AND EQUITY.

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

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. The petitioner is before this Court seeking for the following reliefs:

   a. *Issue a Writ, Order or direction in the nature of Certiorari to quash the impugned Order dated 30.07.2025 bearing No.DIN and letter No.ITBA/ COM/f/17/2025-26/1079090630(1) passed by the respondent No.1 vide Annexure-C in so far as petitioner is concerned.*

   b. *Issue a Writ, Order or direction in the nature of certiorari to quash the notice dated. 26.08.2025 bearing case No. PBPTA/FR/177/MUM/2025/2121, issued by the respondent No.2, vide Annexure-D in so far as petitioner is concerned.*

   c. *Pass any other order, which this Hon'ble Court may deem fit, including the cost of the Writ petition in the interest of justice and equity.*

2. A notice had been issued to a Benamidar contending that the Benamidar was holding the property of the petitioner as a beneficial owner under sub-Section (1) of Section 24 of the Prohibition of Benami Property Transaction Act, 1988 (for short 'the Act'). The Benamidar having replied to the notice, orders had been passed in terms of Annexure-C. It is challenging

the same that the petitioner-beneficial owner is before this Court.

3. The submission of Shri Gangadhar J.M., learned counsel for the petitioner is that though the notice issued to the Benamidar was marked to the beneficial owner, there was no mention made in the said notice that the beneficial owner is required to reply to the said notice and it is in that background, he submits that the rights of the petitioner have been *impinged* upon, the principles of natural justice have been violated, orders have been passed without affording an oppertunity to the petitioner to reply to the show cause notice, which have affected the petitioner in terms of Annexure-C.

4. Shri M. Thirumalesh., learned counsel appearing for the revenue, would submit that there is no requirement for the revenue to specifically call upon the beneficial owner to reply to the notice issued to

the Benamidar under sub-Section (1) of Section 24 of the Act. What is required is only for a copy to be marked to the beneficial owner, which has been done by the revenue. Once the beneficial owner receives the notice, it was for the beneficial owner if he wanted to so do, provide an explanation or submission within the time period specified for the Benamidar to reply to the notice under sub-Section (1) of Section 24 of the Act. It is in that background, he submits that the beneficial owner having received the notice, not having chosen to reply, cannot after orders are passed approach this Court alleging violation of natural justice.

5. Heard Shri Gangadhar J.M., learned counsel for the petitioner and Shri M.Thirumalesh., learned counsel for the respondents.

6. The short question that would arise for consideration is `***whether there is a requirement specifically for***

the revenue to call upon the beneficial owner to reply to a notice issued to the Benaminar under sub-Section (1) of Section 24 of the Act'?.

7. Section 24 (1)(2) and 2(A) of the Act, are reproduced hereunder for easy reference.

> ***24. Notice and attachment of property involved in Benami transaction***.—
>
> *(1) Where the Initiating Officer, on the basis of material in his possession, has reason to believe that any person is a Benamidar in respect of a property, he may, after recording reasons in writing, issue a notice to the person to show cause within such time as may be specified in the notice why the property should not be treated as Benami property.*
>
> *(2) Where a notice under sub-section (1) specifies any property as being held by a Benamidar referred to in that sub-section, a copy of the notice shall also be issued to the beneficial owner if his identity is known.*
>
> *[(2A) The Benamidar, to whom a notice has been issued under sub-section (1), or the beneficial owner to whom a copy of such notice has been issued under sub-section (2), shall furnish the explanation or submissions, if any, within the period specified in the said notice or such period as may be extended by the Initiating Officer, not exceeding three months from the end of the month in which the said notice is issued.]*

8. Under sub-Section (1) of Section 24 of the Act, where the Initiating Officer, on the basis of material in his possession, has reason to believe that any person is a Benamidar in respect of a property, he may, after recording reasons in writing, issue a notice to the person to show cause within such time as may be specified in the notice why the property should not be treated as Benami property. It is that notice, which has been issued to the Benamidar in the present matter.

9. In terms of sub-Section (2) of Section 24 of the Act, where a notice under sub-section (1) specifies any property as being held by a Benamidar, a copy of the notice is required to be issued to the beneficial owner if his identity is known; that would mean that if the identity is not known, there is no requirement to forward a copy to the beneficial owner. But where identity is known, it would be required to be marked to the beneficial owner.

10. Sub-Section 2A has been inserted by way of Amendment Act No.15 of 2024, which came into effect from 01.10.2024, which provides that the Benamidar to whom a notice has been issued under sub-Section (1) or the beneficial owner to whom a copy of such notice has been issued under sub-Section (2), shall furnish the explanation or submission, if any, within the period specified in the said notice or such period as may be extended by the Initiating Officer not exceeding 3 months from the end of the month in which the said notice was issued.

11. Though sub-Section 2A of Section 24 of the Act is clear that the beneficial owner could furnish the explanation or submission once a notice is marked to the beneficiary owner, what would be required to be seen is whether the beneficial owner has been called upon to reply to the notice under sub-Section (1) of Section 24 of the Act.

12. A perusal of the impugned notices would only indicate that there are references made to the beneficial owner and finally a copy has been marked to the beneficial owner. There is nothing in the notice calling upon the beneficial owner to reply to the said notice. Though the submission of Shri Thirumalesh., learned counsel for the respondents is that there is no requirement to call upon the beneficial owner to reply to the notice in terms of Section 2A, and it was always available for the beneficial owner to reply to the notice. I am of the considered opinion that Section 2A recognises the right of the beneficial owner to reply to the notice under sub-Section (1) of Section 24 of the Act. But there is nothing in the impugned notice calling upon the beneficial owner to reply to the impugned notice. It would be required for the revenue while issuing a notice under sub-Section (1) of Section 24 of the Act to the Benaminar, mark a copy thereof under sub-Section (2) of Section 24 of the Act and call upon the

beneficial owner to reply to the same by way of furnishing explanation or submission by specifically stating so in the said notice.

13. If at all, the same had been specifically stated, this kind of a technical objection could not have been raised by the petitioner delaying the matter. In that background, I pass the following:

ORDER

i. Writ petition is **allowed**.

ii. A certiorari is issued. The order dated 30.07.2025 passed by respondent No.1 at Annexure-C and the order dated 26.08.2025 issued by respondent No.2 at Annexure-D, are quashed.

iii. The petitioner is permitted to reply to the notice under sub-Section (1) of Section 24 of the Act issued to the benamidar, which has been marked to the beneficial owner within 15 days from today. If such reply is received by the Initiating Officer, the said reply shall be considered and necessary orders passed thereon, in terms of Section 24 of the Act.

In the event of no reply being received within 15 days, i.e., on or before 15.10.2025, the Initiating Officer is free to proceed with the matter.

iv. The Initiating Officers are directed to henceforth, in any notice issued under sub-Section (1) of Section 24 of the Act to the Benamidar and marked to the beneficial owner categorically state that the beneficial owner is also required to reply, submit explanation or submission within the time frame as that provided to the Benaminar in the said notice.

v. Learned counsel for the revenue is directed to bring the above direction to the notice of Chief Commissioner, Income Tax Department, so that necessary instruction could be issued to the concerned officers.

SD/-
(SURAJ GOVINDARAJ)
JUDGE

AM
Ct:pa
List No.: 1 Sl No.: 24