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**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**DATED THIS THE 1<sup>ST</sup> DAY OF SEPTEMBER 2008

BEFORE

THE HON'BLE DR. JUSTICE K.BHAKTHAVATSALA

WRIT PETITION No.297/2006 (GM)

BETWEEN

1 M S PADMARAJAIAH  
SENIOR ADVOCATE  
AGED 67 YEARS,  
NO 438, 23<sup>RD</sup> CROSS,  
10 MAIN ROAD, BANASHANKARI II STAGE  
BANGALORE 560 070

... PETITIONER

(BY SRI: R S RAVI, ADV. )

AND :

- 1 THE SECRETARY  
DEPARTMENT OF FINANCE  
GOVERNMENT OF KARNATAKA  
VIDHANA SOUDHA  
VIDHANA VEEDHI  
BANGALORE 560 001
- 2 THE DIRECTOR  
DEPARTMENT OF SMALL SAVINGS  
GOVERNMENT OF KARNATAKA  
VISWESWARAIAH TOWER  
VIDHANA VEEDHI,  
BANGALORE 560 001
- 3 THE SECRETARY  
MINISTRY OF FINANCE  
GOVERNMENT OF INDIA  
NEW DELHI 110001

- 4 THE SECRETARY  
DEPARTMENT OF POSTS  
MINISTRY OF COMMUNICATION  
GOVERNMENT OF INDIA  
NEW DELHI 110001
- 5 THE CHIEF POST MASTER GENERAL  
KARNATAKA CIRCLE  
BANGLAORE 560 001
- 6 THE POST MASTER  
HEAD POST OFFICE  
BASAVANAGUDI,  
K R ROAD  
BANGALORE 560 004

... RESPONDENTS

[BY SRI: H.K. BASAVARAJ, HCGF FOR R1 & 2;  
SRI ARAVIND KUMAR, AEG FOR R3;  
SRI M K.BOPAIAH,ADV. FOR R4-R6]

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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH LETTER DATED 9.11.2005 VIDE ANX-K AND LETTER DATED 27.7.2005, VIDE ANX-L AND FURTHER BE PLEASED TO QUASH ANX-M LETTER DATED 15.11.2005, AS VOID, ILLEGAL, UNCONSTITUTIONAL AND WITHOUT THE AUTHORITY OF LAW AND BEING ARBITRARY, NOT SUPPORTED BY LEGISLATION OR STATUTE; CONSEQUENTLY TO DIRECT THE R1 TO 6 TO ALLOW THE PETITIONER TO DEPOSIT AND ACCEPT A TOTAL SUM OF RS.1,60,900/- IN HIS PPF ACCOUNT NO. 0154 AT THE POST OFFICE OF THE SIXTH RESPONDENT DURING THE CURRENT FINANCIAL YEAR 2005-2006.

THIS PETITION COMING ON FOR HEARING, THE SAME HAVING BEEN HEARD AND RESERVED FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:



**ORDER**

The petitioner is before this Court praying for the following relief:

[i] to issue a writ of certiorari quashing the letter bearing No.5B/5-2/Dlgs/11 dated 9.11.2005 at Annexure-K; letter bearing No.7/10/2005-NS.11 dated 27.7.2005, Annexure-L and letter bearing No. Sup[2]:95/2005-2006 dated 15.11.2005 at Annexure-M; and

[ii] to direct the respondents-1 to 6 to accept a total sum of Rs.1,00,000/- in his Public Provident Fund (in short, 'P P F Account') No.0154 at the post office of the 6<sup>th</sup> respondent during the financial year 2005-2006.

2. The brief facts leading to the filing of this writ petition are as under:

The petitioner who is a Senior Advocate of the Bar, holding a P P F Account No.0154 (one of the specified Savings under Section 80-C of Income Tax Act) with the 6<sup>th</sup> respondent. Section 80-C of

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the Income Tax Act was amended by the Finance Act, 2005 increasing the permissible deduction from Rs.70,000/- to Rs.1,00,000/- for the financial year 2005-06 (commencing from 1.4.2005 to 31.3.2006) During the financial year 2005-06 the petitioner had deposited a sum of Rs.40,000/- in his P P F Account. Later on, he sent a cheque for Rs.40,000/- by way of second instalment towards P P F. But, the said 6<sup>th</sup> defendant refused to accept the second instalment of Rs.40,000/- on the ground that the total deposit exceeds Rs.70,000/- in a year. Hence, the petitioner sent another cheque for a sum of Rs.30,000/- towards the P P F Account. He made a request to authorities concerned to permit him to deposit a maximum of Rs. 1,00,000/- in his PPF A/C, as per Finance Act, 2005, but in vain. The reply received by the petitioner from the respondents 5<sup>th</sup>, 3<sup>rd</sup> and 2<sup>nd</sup> are at Annexures-K, L and M, respectively. It is contended that the respondents-1 to 5 have no authority to reply as per the impugned communication contrary to the Income Tax Act. Therefore, the petitioner is before this court praying for the reliefs as mentioned above.


3. The Writ Petition was filed on 5.1.2006. The financial year of 2005-2006 came to an end on 31.3.2006. There is no interim order in favour of the petitioner. Learned Counsel for the

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petitioner submitted that as per Section 80-C of the Income Tax Act as amended by the Finance Act 2005, the petitioner was entitled to deposit a sum of Rs.1,00,000/- in P P F Account, but the 6<sup>th</sup> respondent erred in refusing to receive the deposit more than Rs.70,000/- on the ground that the Public Provident Fund Scheme, 1968 (in short, 'the P P F Scheme') does not permit. Thus, the petitioner was deprived of making use of Section 80-C of the Income Tax Act and avail the deduction thereof.

4. Learned counsel for the respondents submitted that as per the P P F ( second Amendment ) Scheme 2002 and paragraph 3 (which came into force on 15.11.2002) an individual may subscribe to Public Provident Fund any amount not less than Rs.500/- and not more than Rs.70,000/- in the financial year and therefore the petitioner was not entitled for any relief as prayed for.

5. As stated above, there is no interim order in favour of the petitioner to deposit a sum of Rs.1,00,000/- in the petitioner's P P F Account with the 6<sup>th</sup> respondent during the financial year 2005-2006. Hence, the second relief sought for does not survive for consideration.



6. The first prayer of the petitioner is for quashing the communications dated 9.11.2005, 27.7.2005 and 15.11.2005 at Annexures-K, L and M. But those letters have issued in terms of the existing P P F Scheme. Therefore, there is no good ground for quashing those communications. Keeping in view that the Income Tax Act 1961 was amended by the Finance Act of 2005 permitting an individual to deposit to the maximum of Rs.1,00,000/-, in any of the specified schemes, the concerned authorities should have taken steps to amend paragraph 3 of the P P F Scheme 1968 as amended earlier by increasing the subscription limit from Rs.20,000/- to Rs. 30,000/- w.e.f 2.3.79; from Rs.30,000/- to Rs.40,000/- w.e.f 16.3.83; from Rs.40,000/- to Rs. 60,000/- w.e.f 23.6.86; and from Rs.60,000/- to Rs. 70,000/- w.e.f 15.11.2002 as and when section 80 of the I.T.Act was amended. The authorities should have amended paragraph 3 of the PPF scheme, 1968 as per the Finance Act, 2005. In the facts and circumstances of the case, it would meet the ends of justice to direct the respondent Nos.3 and 4 to take steps to amend Clause-3 of the P P F Scheme, 1968 in terms of Section 80 C of the I.T. Act.

7. In the result, the respondents 3 and 4 are directed to amend paragraph 3 of the P P F Scheme, 1968, and increase the

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maximum limit of subscription in the P P F Account as per the Finance Act, 2005, within three months from the date of receipt copy of this order. Accordingly, the Writ Petition is disposed of.  
No costs.

Sd/—  
Judge

Pr/-

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