IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.Nos.4096, 4097, 4103, 4107, 4384 and 4386 of 2019
and
W.M.P.Nos.4581 & 4585, 4590 & 4591, 4601 & 4603,
4610 & 4611, 4921 & 4923, 4924 & 4925 of 2019

W.P.No.4096 of 2019

K.2065 Kalikkanaickenpalayam Primary
Agricultural Cooperative Credit Society Ltd.,
Rep.by its Secretary,
S.Sivaswamy, M/54
S/o.S.Subramaniam,
No.1/136, Vinayagar Nagar, Kasthurinaickenpalayam,
Vadavalli Post, Coimbatore - 641 041. ..Petitioner

vs

The Income Tax Officer,
Non Corp Ward-4 (2), CBE,
No.63, Race Course Road,
Coimbatore - 641 018. ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in Order No.ITBA/AST/S/143(3)/2018-19/1014150223(1), dated 10.12.2018 and quash the same.

W.P.No.4097 of 2019

K.1788 Naraseepuram Primary
Agricultural Cooperative Credit Society Ltd.,
Rep.by its Secretary,
K.Nataraj, M/48
S/o.Kalisamy,
No.9/56, Nagar Koil Street,
Pullagoundenpudur,
Devarayapuram,
Coimbatore - 641 109 ..Petitioner

vs

The Income Tax Officer,
Non Corp Ward-4 (2), CBE,
No.63, Race Course Road,
Coimbatore - 641 018. ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in Order No.ITBA/AST/S/143(3)/2018-19/1014220470(1), dated 12.12.2018 and quash the same.

W.P.No.4103 of 2019

K.343, Ondipudur Primary
Agricultural Cooperative Credit Society Ltd.,
Now name changed as
K.343, Ondipudur Urban Cooperative
Credit Society Ltd.,
Rep.by its Secretary,
R.Indirani, F/56,
W/o.P.Palanisamy,
No.18, Bharathiyar Street,
Kuttinaicker Layout, Uppilipalayam,
Coimbatore South, Coimbatore - 641 015. ..Petitioner

vs

The Income Tax Officer,
Non Corp Ward-1(2), CBE,
No.63, Race Course Road,
Coimbatore - 641 018. ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in Order No.ITBA/AST/S/143(3)/2018-19/1014433482(1), dated 20.12.2018 and quash the same.

W.P.No.4107 of 2019

K.1006 Singanallur Primary
Agricultural Cooperative Credit Society Ltd.,
Now name changed as
K.1006, Singanallur Urban Cooperative
Credit Society ltd.,
Rep.by its Secretary,
T.Kannan, M/52,
S/o.S.V.Thirupathi,
No.199, Asthandra Naicker East Street,
Singanallur, Coimbatore - 641 005. ..Petitioner

vs

The Income Tax Officer,
Non Corp Ward-1(2), CBE,
No.63, Race Course Road,
Coimbatore - 641 018. ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in Order No.ITBA/AST/S/143(3)/2018-19/1014433055(1), dated 20.12.2018 and quash the same.

W.P.No.4384 of 2019

K.1571 Karattupalayam Primary Agricultural
Cooperative Credity Society Ltd.,
Rep.by its Secretary,
T.Xaviour Paul Vincent, M/54
S/o.A.Thangamuthu,
No.1/176-A, Alagumalai & Post,
P.K.Palayam Via,
Tiruppur - 641 665 ..Petitioner

vs

The Income Tax Officer,
Ward-2(1), TPR Income Tax Office,
No.121, 60 Feet Road,
Tiruppur - 641 602 ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in Order No.ITBA/AST/S/143(3)/2018-19/1014419241(1), dated 19.12.2018 and quash the same.

W.P.No.4386 of 2019

No.3386 Kattumadhappur Primary Agricultural
Cooperative Credit Society Ltd.,
Rep.by its Secretary,
V.Srinivasan, M/55
S/o.Venkataraman,
No.11-B, Antheri Gounder Thottam,
Mangalam Road, Palladam Taluk
Tiruppur District. ..Petitioner

vs

The Income Tax Officer,
Ward-2(2), TPR Income Tax Office,
No.121, 60 Feet Road,
Tiruppur - 641 602 ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in Order No.ITBA/AST/S/143(3)/2018-19/1014403706(1), dated 19.12.2018 and quash the same.

For Petitioners: Mr.C.Prakasam
for Ms.R.Hemalatha
(in all W.Ps)

For Respondents: Mr.A.P.Srinivas, Senior Panel counsel
assisted by Mr.A.N.R.Jayaprathap
Junior standing counsel
(Income Tax)
(in all W.Ps)

C O M M O N O R D E R

This common order will govern these six writ petitions. In other words, this common order will dispose of these six writ petitions.

2. Mr.C.Prakasam, learned counsel representing the counsel on record for writ petitioner Ms.R.Hemalatha and Mr.A.P.Srinivas, learned Senior Panel counsel assisted by Mr.A.N.R.Jayaprathap, learned Junior standing counsel for Income Tax on behalf of respondents are before this Court.

3. With consent of learned counsel on both sides, main writ petitions are taken up, heard out and are being disposed of.

4. It is submitted without any disputation or disagreement by both sides that the central theme / core issue in these six writ petitions is one and the same and they arise out of factual matrix, which are akin to each other.

5. Considering the nature of the submissions made today, these writ petitions now turn on an extremely narrow compass and therefore, this Court does not embark upon the exercise of setting out the factual matrix in great detail.

6. Suffice to say that the writ petitioners in these six writ petitions are Agricultural Credit Cooperative Societies registered under 'Tamil Nadu Cooperative Societies Act, 1983' [hereinafter 'TNCS Act' for brevity]. Assessment orders passed under the 'Income Tax Act, 1961' ['IT Act' for brevity] under Section 143(3) of the IT Act have been called in question in these writ petitions and therefore, these six assessment orders shall be referred to collectively in plural as 'impugned orders' and as 'impugned order' in singular, wherever necessary.

7. The pivotal issue is that the writ petitioner being a Cooperative Society registered under TNCS Act is advancing an argument that the writ petitioner is entitled to claim various deductions adumbrated under Section 80P of IT Act.

8. This Court, in the Commissioner of Income Tax, Salem Vs. Tiruchengode Agricultural Producers Cooperative Marketing Society Ltd., [hereinafter 'Tiruchengode Agricultural Producers Cooperative Marketing Society case' for brevity] vide order dated 02.08.2016 made in Tax Case Appeal Numbers.484 to 487 and 490 of 2016 and in the Commissioner of Income Tax Vs. M/s. Veerakeralam Primary Agricultural Co-operative Credit Society dated 05.07.2016 made in Tax Case Appeal Nos.735, 755 of 2014 and 460 of 2015, [hereinafter 'Veerakeralam Primary Agricultural Co-operative Credit Society principle' for brevity] had held that Cooperative Societies akin to the writ petitioner are entitled to claim various deductions adumbrated under Section 80P of IT Act. This obtaining legal position is not in dispute.

9. In these cases, this Court is informed by both sides that the writ petitioner has already preferred statutory appeals against each of the impugned orders. Thus statutory appeals are under Section 246A of IT Act and they are pending before the jurisdictional Commissioner (Appeals).

10. As there are other issues also with regard to the impugned orders, it is submitted in unison that it will suffice if there is an observation that the aforesaid statutory appeals shall be decided by the Appellate Authority, keeping in mind the Veerakeralam Primary Agricultural Co-operative Credit Society principle as well as the Tiruchengode Agricultural Producers Cooperative Marketing Society case, both of which have been alluded to supra.

11. It is submitted by learned counsel for Revenue that the Revenue intends to carry the Tiruchengode Agricultural Producers Cooperative Marketing Society case and Veerakeralam Primary Agricultural Co-operative Credit Society principle to Hon'ble Supreme Court, but there is no disputation that as of today, these judgments have been neither stayed nor reversed.

12. If there is any development in this regard between the date of this order and the proposed petitions in Hon'ble Supreme Court, it will be open to the Appellate Authority to apply the obtaining position of law as on the date of decision making and decide the statutory appeals.

13. To be noted, both Tiruchengode Agricultural Producers Cooperative Marketing Society principle and Veerakeralam Primary Agricultural Co-operative Credit Society principle are judgments rendered by Hon'ble Division Benches of this Court and these judgments have been rendered by Hon'ble Division Benches in statutory appeals under Section 260A of IT Act by formulating substantial questions of law and answering the same. The principle that an Agricultural Credit Cooperative Society akin to writ petitioners will be entitled to claim deductions under various heads adumbrated under Section 80P of IT Act undisputedly comes out clearly from the answers to the substantial questions of law formulated and answered by Hon'ble Division Benches in aforesaid Tax Case Appeals.

14. These writ petitions are disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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   Non Corp Ward-4(2), CBE,
   No.63, Race Course Road,
   Coimbatore - 641 018.

2. The Income Tax Officer,
   Non Corp Ward-1(2), CBE,
   No.63, Race Course Road,
   Coimbatore - 641 018.

3. The Income Tax Officer,
   Ward-2(1), TPR Income Tax Office,
   No.121, 60 Feet Road,
   Tiruppur - 641 602

4. The Income Tax Officer,
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SS(CO)
SSM(20/08/2019).