IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.03.2019

Coram

The Honourable DR.JUSTICE ANITA SUMANTH

WP. No.6730 of 2019
& W.M.P.No.7544 of 2019

M/s.The Cuddalore District Central
Co-Operative Bank Ltd,
Represented by its General Manager
Mr.S.Janagiraman,
No., Beach Road,
Cuddalore-607001 ... Petitioner

/Vs/

1. The Deputy Commissioner of Income Tax,
   Cuddalore Circle,
   Soorapaa Naicken Chavadi,
   Cuddalore-607 002
2. The Commissioner of Income Tax (Appeals), Pondichery
   D.P.Thottam, Muthialpet,
   Puduchery-605 003 ...Respondents

P R A Y E R: WRIT PETITION under Article 226 of the Constitution in the nature of Mandamus directing the respondents to refund the disputed taxes for the Asst.Year 2016-17 in full or atleast to the extent of 80% and dispose the appeal filed on 11.01.2019 vide Ack No.407695771110119, which is pending before the 2nd respondent and fix a time frame.

For Petitioner : Mr.K.Ravi

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

O R D E R

Heard Mr.K.Ravi, learned counsel appearing for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel for the respondent.

2. The petitioner is a Co-operative society, carrying on the business of banking. Pursuant to a return of income filed in

terms of the provisions of the Income Tax Act, 1961 (in short the 'Act') in respect of assessment year 2016-17, an order of assessment, after due scrutiny, was passed by the 1st respondent on 17.12.2018 determining the total income at a sum of Rs.12,55,49,233/- as against a loss of a sum of Rs. 1,26,30,262/- returned by the petitioner.

3. An appeal has been filed challenging the aforesaid assessment before the Commissioner of Income Tax (Appeals) (in short 'CIT (A)') arrayed as the 2nd respondent in the writ petition. While this is so, it appears that notices under Section 226(3) attaching all bank accounts of the petitioner have been issued on 21.02.2019 by the 1st respondent. An application for stay dated 24.01.2019 has been filed before the Assessing Officer and a copy of the same has also been filed before the CIT(A) seeking a direction to be issued to the Assessing Officer to refund the amount recovered by him.

4. It is seen that the main issue raised in appeal relates to a deduction claimed under Section 36(1)(vii)(a) of the Act. The Appellate Authority has, vide order dated 19.03.2018, passed in respect of assessment year 2014-15 allowed the appeal deciding the ground relating to Section 36(1)(vii)(a) in favour of the present petitioner. A copy of order dated 19.03.2018 is circulated by the petitioner.

5. In the light of the aforesaid, it would suffice in the interests of justice, to direct the CIT(A) to dispose the appeal filed by the petitioner within a period of twelve(12) weeks from today after hearing the petitioner. The writ petition is disposed of in the above terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1. The Deputy Commissioner of Income Tax,
Cuddalore Circle,
Soorapaa Naicken Chavadi,
Cuddalore-607 002

2. The Commissioner of Income Tax (Appeals), Pondichery
D.P.Thottam, Muthialpet,
Puduchery-605 003

+1cc to Mr.A.P.Srinivas, Advocate sr.no.28218

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nr 25/03/2019