

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.15 of 2020, 33987 & 33981 of 2019
WMP.Nos.9 & 10 of 2020, 34574, 34575, 34570, 34571 of 2019

C.C.2360, Devapalayam Primary,
Agricultural Cooperative Credit Society Ltd.,
Rep. by its Secretary,
Kokila ...Petitioner in W.P.No.15 of 2020

K.816, Telungupalayam Primary Agricultural
Cooperative Credit Society,
Rep. by its Secretary,
Devilakshmi ...Petitioner in W.P.No.33987 of 2019

K.1569 Palladam Farmers
Service Cooperative Society Ltd.,
Presently named as
K.1569 Palladam Primary Agricultural
Cooperative Credit Society,
Rep. by its Secretary,
A. Jeyabalan, ...Petitioner in W.P.No.33981 of 2019

--Vs--

The Income Tax Officer,
Non-Corp Ward-3(2), CBE,
No.63, Race Course Road,
Coimbatore-641 018 ...Respondent in WP.No.15 of 2020

The Income Tax Officer,
Non-Corp Ward-2(5), CBE,
No.63, Race Course Road,
Coimbatore-641018 ...Respondent in WP.No.33987 of 2019

The Income Tax Officer
Ward-2(2), TPR, Income Tax office,
No.121, 60 Feet Road,
Tiruppur-641 602 ...Respondent in WP.No.33981 of 2019

PRAYER in W.P.No.15 of 2020: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in Order No.ITBA/AST/S/144/2019-20/1021398199(1), dated 30.11.2019 and quash the same.

PRAYER in W.P.No.33987 of 2019: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in Notice No.ITBA/PNL/S/270A/2019-20/1019838428(1), dated 06.11.2019 and quash the same.

PRAYER in W.P.No.33981 of 2019: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in Order No.ITBA/AST/S/144/2019-20/1018797373(1), dated 11.10.2019 and quash the same.

For Petitioner : Mr.C.Prakasam in all WPs

For Respondent : Mr.A.N.R. Jeya Prathap

Standing Counsel in all WPs

COMMON ORDER

The petitioners in these cases claim to be primary co-operative societies that challenge orders of assessment passed in terms of Section 144 of the Income Tax Act, 1961 ('Act') assessing their income to the best of the Assessing Officers' judgment.

2. The facts in relation to each of the petitions is identical except for the demands raised and hence these writ petitions are disposed by way of a common order.

3. The petitioners did not file returns of income in respect of Assessment Year (AY) 2017-18 and thus notices under Section 142(1) were issued, calling for returns of income to be filed. There was no compliance. A reminder was issued calling for reasons for non-filing of the returns as well as other details required for completion of assessment, that were also not responded to.

4. Details obtained from banks in which the petitioner co-operative societies held accounts, revealed deposit of demonitised notes during the period of demonitisation. Show cause notices were issued to, and served upon the petitioners

also eliciting no response. The same fate befell summons and reminders under Section 131 of the Act calling upon the petitioner to appear and furnish various details.

5. In the light of the non-cooperation on the part of the petitioners and admitted lack of response to several notices and communications issued, the respondent Assessing Officer proceeded to complete the assessments ex-parte and to the best of his judgment bringing to tax the total credit as reflected in the bank accounts as unexplained money under Section 69 read with Section 115BBE of the Act. Penalty under Section 271AAC(1) has also been initiated. It is as against the aforesaid orders that the present writ petitions have been filed.

6. The Department has filed a counter stating that impugned orders of assessment are passed in line with both the provisions of the Act and the standard operative procedures issued by the Central Board of Direct Taxes. Moreover, the affidavit accompanying the writ petition deals solely with the provisions of Section 80P of the Act, whereas the impugned orders of assessment do not relate to the provisions of Section 80P at all. Thus, the writ petitions have been filed mechanically and even without perusing the contents of the impugned orders.

7. Upon a perusal of the impugned orders of assessment, I find no merit whatsoever in the challenge before me. As pointed out in counter, the contents of the assessment order and the averments in writ petition are wholly unconnected as the addition made in the impugned order is in terms of the Section 69A & 115B of the Act and not Section 80P. Also and more importantly, the petitioner has not co-operated in the least in the framing of assessments and has ignored all communications and notices issued by the Department. It has not even defrayed its statutory responsibility of filing of a return of income for the period in question.

8. These writ petitions are dismissed. Liberty is granted, as prayed for, to file appeals before the first appellate authority within a period of three weeks from today. Connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (C.S.VI)

/True Copy/

Sub Assistant Registrar

To

The Income Tax Officer,
Non-Corp Ward-3(2), CBE,
No.63, Race Course Road,
Coimbatore-641 018

2. The Income Tax Officer,
Non-Corp Ward-2(5), CBE,
No.63, Race Course Road,
Coimbatore-641018
Coimbatore District

3. The Income Tax Officer
Ward-2(2), TPR, Income Tax office,
No.121, 60 Feet Road,
Tiruppur-641 602The Commercial Tax Officer
Anuparpalayam Assessment Circle,
Tirupur

Copy to : The Section Officer, E.R.Section,
Madras High Court, Chennai -104.

+2cc to Mr.C.Prakasam, Advocate Sr.Nos.6465 and 6466
+2cc to Mr.A.P.Srinivas, Advocate Sr.Nos.6440 and 6443

AKM/03.02.2020/4P-9C/

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