IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.2259 of 2020
and
WMP. Nos.2639 & 2640 of 2020

417 Vadamugam Kangayampalayam Primary
Agricultural Cooperative Credit Society Ltd.
Rep. by its Secretary C.B.Arunkumar,
S/o. C.R. Balasubramaniam,
Perumanallur Road, Kunnathur 638 103
Uthukuli Taluk
Tiruppur District .. Petitioner

Vs.

The Income Tax Officer,
Ward - 1 (3) 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 Writ of Certiorari to call for the entire records relating to the impugned order passed by the respondent in DIN and order No. ITBA/ AST/S/ 143(3)/ 2019-20/ 1022999658(1) dated 24.12.2019 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr. ANR.Jayapratap, Standing Counsel.

O R D E R

Heard Mr.C.Prakasam, learned counsel for the petitioner and Mr.ANR.Jayapratap, learned Standing Counsel for the respondent.

2. The challenge in this matter is to an order of assessment passed under Section 143(3) of the Income Tax Act, 1961 (in short 'Act') for the assessment year (AY) 2017-18. The Writ Petition has been filed along with a Miscellaneous Petition seeking dispensation of production of the original order of assessment. However, no reason has been set forth for dispensation of the same and at paragraph 7, the petitioner merely states that 'the original impugned order passed by the

respondent is not readily available at the time of filing of this Writ Petition at Madras'. This affidavit has been filed on 27.01.2020. Till date the original order of assessment has not been filed. I thus find no reason to entertain the Writ Petition and am inclined to dismiss the same in limine.

3. Be that as it may, the impugned order is one of assessment, amenable to statutory appeal. No case whatsoever has been made out in the affidavit filed in support of the Writ Petition as to why the matter is liable to be interfered with under Article 226 of the Constitution of India. The only ground raised is in relation to the petitioner's claim that it is entitled to an exemption under Section 80P of the Act by an application of the principles of mutuality. This is the sole ground raised by the petitioner.

4. I have had occasion to deal with the identical issue in the case of other Co-operative Societies and have directed that a statutory appeal be filed challenging the orders of assessment.

5. In the interests of consistency, this petitioner is also permitted to file an appeal and such appeal, if filed within a period of two (2) weeks from date of uploading of this order, shall be taken on file by the office of the Commissioner of Income Tax (Appeals) and disposed without reference to limitation, in accordance with law.

6. With these observations, this Writ Petition is dismissed. No costs. Connected Miscellaneous Petitions are also dismissed.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

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

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PA(CO)
SP(06/10/2020)