IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2020

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.8812 & 6898 of 2020
and
WMP. No.8230 of 2020

C.C.2360 Devampalayam Primary Agricultural
Cooperative Credit Society Lt.
Rep by its Secretary,
Kokila, W/o.R.Selvaraj No.5/18,
Karuvalur Road, Devampalayam,
Coimbatore-641 107

… Petitioner in both WPs.

Vs

1 The Commissioner of Income Tax (Appeals) -3,
8th Floor Income Tax Annex,
Building No.63, Race Course Road,
Coimbatore- 641 018,
Coimbatore District.

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

… Respondents in both WPs.

Prayer in W.P. No.8812 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Mandamus to direct the 2nd respondent to allow the petitioner Society to operate entire bank account which is maintaining in the district central cooperative Bank Coimbatore.

Prayer in W.P. No.6898 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorari to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings No. DIN.ITBA /APL/ F/ 17/ 2019-20/ 1026498395 (1), dated 12.3.2020 and quash the same.

For Petitioner : Mr.C.Prakasam
For Respondents : Mr.ANR. Jayapratap
Standing Counsel

C O M M O N   O R D E R

Heard Mr.C.Prakasam, learned counsel for the petitioner and Mr.A.N.R.Jayaprathap, learned Standing Counsel for the respondents.

2. By consent expressed by both leaned counsel, these writ petitions are disposed finally even at this stage.

3. The petitioner claims to be a primary agricultural co-operative society. W.P.No.6898 of 2020 is filed challenging the order passed by the Commissioner of Income Tax (Appeals) in a petition filed by the petitioner seeking stay of demand arising from an order of assessment, passed in terms of the provisions of the Income Tax Act, 1961 (in short 'Act') dated 11.10.2019, for the Assessment Year (A.Y.) 2017-18.

4. The petitioner had challenged the order of assessment itself in W.P.No.15 of 2020 and by order dated 28.01.2020, the challenge was rejected granting liberty to the petitioner to file a statutory appeal before the Appellate Authority within a fixed time frame. Such appeal, according to the petitioner, has been filed and is pending disposal.

5. Inter alia, in the aforesaid order dated 28.01.2020, I have noted that the petitioner has neither filed a return of income nor has replied to notices/questionnaire issued by the Assessing Officer prior to completion of the assessment. The issue, on merits, relates to substantial credits in the bank accounts of the petitioner of demonetized notes. Such credits were thus brought to tax as unexplained money under Section 69A of the Act read with Section 115BBE thereof.

6. Insofar as a statutory appeal against the assessment is pending, the aforesaid facts are noted only for completion of the narration and the appeal filed by the petitioner shall be disposed in accordance with law, unhindered by any observation made herein.

7. Coming to the challenges before me, I am of the view that both writ petitions have absolutely no merit and deserve to be dismissed in limine. The impugned order challenged in W.P.No.6898 of 2020 has been passed by the Appellate Authority upon consideration of the merits as well as the financial and bank statements filed by the petitioner. The petitioner was directed to pay 25% of the tax demand within a specified time frame. The order also states that if the aforesaid direction was not complied with, the stay granted would stand revoked.

8. No case is made out to warrant interference with the aforesaid impugned order and W.P.No.6898 of 2020 is thus dismissed.

9. Since the petitioner did not comply with the directions in order dated 12.03.2020, the bank account of the petitioner has been attached, challenging which, the petitioner has filed W.P.No.8812 of 2020.

10. In the light of the order passed in W.P.No.6898 of 2020, I find no reason whatsoever to interfere with the attachment of the bank account and W.P.No.8812 of 2020 is also dismissed. The petitioner is at liberty to approach the Commissioner of Income Tax (Appeals) seeking early hearing and disposal of the appeal itself. Consequently connected miscellaneous petition is also dismissed. No costs.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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+2 Ccs to Mr.A.P. Srinivas, Advocate sr 24786.

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BR(CO)

SP(04/08/2020)