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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P. (C) 5919/2020 & C.M.No.21403/2020

PANCHMAHAL DISTRICT COOPERATIVE MILK PRODUCERS UNION LTD. & ORS. ..... Petitioners

Through: Mr.Ramesh P Bhatt, Sr.Advocate with Mr.Malak Bhatt, Ms.Devanshi Singh and Ms.Chandni Ghatak, Advocates.

versus

UNION OF INDIA & ORS. ...... Respondents

Through: Mr.Zoheb Hossain, Sr.Standing counsel for Income Tax Department with Mr.Kalrav Mehrotra, Advocate.

% Date of Decision: 17th September, 2020

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.

2. On the last date of hearing, this Court had passed the following order:-

> "***C.M.Nos.21404-21406/2020***
>
> *Exemption allowed, subject to all just exceptions. Accordingly, the application stands disposed of.*

W.P.(C) No.5919/2020 & C.M.No.21403/2020

The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video conferencing.

Present writ petition has been filed challenging Section 194A of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') inserted vide Finance Act, 2020 with effect from 01st July, 2020 to the extent that the provision has been made applicable to Dairy Co-operative Societies (DCS). In the alternative, the petitioners pray for a direction to the respondents to declare/clarify that the amendment to Section 194A of the Act inserted vide Finance Act, 2020 is not applicable to the DCS.

Learned counsel for the respondents raises a preliminary objection on the ground that this Court has no territorial jurisdiction to entertain and decide the present writ petition.

Learned counsel for the respondents is directed to obtain instructions as to whether the respondent-CBDT is willing to dispose of the petitioners' representation dated 20th July, 2020 by way of a reasoned order in a time bound manner.

At the request of learned counsel for the respondents, adjourned to 17th September, 2020.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

3. In pursuance to the aforesaid order, the respondent-Central Board of Direct Taxes (CBDT) has filed a short affidavit. The relevant portion of the said affidavit reads as under:-

> *"4. In this regard, it is respectfully submitted that while the powers to address the constitutional validity of the amended section 194A of the Act vests with the Courts, however, within the powers delegated to it under Section 119 of the Act, CBDT is willing to dispose off the Petitioner's representation within a period of eight weeks subject to furnishing of necessary reply by it, if called by CBDT."*

4. Accordingly, the present writ petition and pending application are disposed of with a direction to the CBDT to decide the petitioners' representation dated 20th July, 2020 after giving an opportunity of hearing to the petitioners, by way of a reasoned order within eight weeks. Petitioners are directed to file any clarification/reply/document asked for by the CBDT.

5. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

SEPTEMBER 17, 2020
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