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

\+ W.P. (C) 5917/2020 & C.M.No.21397/2020

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.21398-21400/2020***
>
> *Exemption allowed, subject to all just exceptions.*
> *Accordingly, the applications stand disposed of.*

W.P.(C) No.5917/2020 & C.M.No.21397/2020

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 the amendment to Section 194N of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') inserted vide Finance Act, 2019 with effect from 01st September, 2019 and substituted by the Finance Act, 2020, whereby it has been made applicable to Dairy Co-operative Societies (DCS). In the alternative, the petitioners pray for a direction to the respondents to issue a notification exempting the petitioners and similarly situated co-operative societies from application of Section 194N.

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:-

"3. At the outset it is respectfully submitted that under the provisions of Section 194N of the Income Tax Act, 1961 ("Act"), the Central Government is empowered to notify any person or class of persons, in consultation with the Reserve Bank of India ("RBI"), in whose case deduction under Section 194N is not to be made or to be made at a lower rate. In the instant petition, the Dairy Cooperative Societies have

sought exemption from the deduction of TDS under Section 194N of the Act by way of notification.

4. *In this regard, it is respectfully submitted that the CBDT is willing to dispose of the representation made by the petitioner on 20.07.2020, within the powers delegated to CBDT under Section 119 of the Act to provide any clarification or relief in the said matter within a period of eight weeks, subject to the furnishing of necessary reply by the Petitioners, if called for by the CBDT.*

5. *It is therefore submitted that 8 weeks' time be granted for examining the plea of the Petitioners who have sought exemption from deduction of tax under Section 194N of the Act under second and fourth proviso of the said section by way of notification, after consulting with RBI for the same."*

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 after consultation with Reserve Bank of India. 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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