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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NOS.7038, 7043, 4901, 4441, 4448, 6455 & 7014 OF 2020
AND 17938, 17963, 17954, 17944, 17957, 17950, 20711, 20767
& 25806 OF 2019

AND

W.M.P.NOS.8392, 8393, 8395, 8400, 8401, 8403, 7625, 7622,
5799, 5801, 7623, 5257, 5259, 5266, 5267, 8366, 8369, 14346,
16166, 16167, 16171, 16225 & 16226 OF 2020, 17360, 17379,
17367, 17343, 17346, 17352, 19868, 19869, 19934, 19937,
25253, 25254 OF 2019 AND 2654 OF 2021

1 AA520 VEERAPPAMPALAYAM PRIMARY AGRICULTURAL
COOPERATIVE CREDIT SOCIETY LIMITED,
REPRESENTED BY ITS SECRETARY,
A.A.520, VEERAPPAMPALAYAM ARACHALUR (VIA),
ERODE - 638 101.
PAN: AADAA8893M

... PETITIONER in W.P.No.7038 of 2020

1 SAKTHI SUGARS EMPLOYEES CO-OPERATIVE
THRIFT CREDIT SOCIETY LIMITED,
REPRESENTED BY ITS SECRETARY MR.R.NATARAJAN,
SAKTHI NAGAR BHAVANI, ERODE - 638 315.
PAN NO. AABAS1338R

... PETITIONER in W.P.No.7043 of 2020

1 SLM/ HSG - 82 THE KANGAYAM TALUK
COOPERATIVE HOUSING SOCIETY LTD.,
REP. BY ITS SECRETARY,
P.SELVARAJ, S/O.N.PALANISAMY,
NO.12-D, BUNGALAPUDUR ROAD,
KOVAI ROAD, KANGAYAM – 638 701,
TIRUPPUR DISTRICT.

... PETITIONER in W.P.No.4901 of 2020

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1 K.464 UNJALUR KOLATHURPALAYAM PRIMARY
AGRICULTURAL CO-OPERATIVE CREDIT SOCIETY LTD.,
REP. BY ITS SECRETARY V.C.SAKTHIVEL MURUGAIAN,
S/O.CHINNAPPA GOUNDER,
NO.9/183, UNJALUR KOLATHUPALAYAM,
UNJALUR - 638 152, ERODE DISTRICT.

... PETITIONER in W.P.No.4441 of 2020

1 AA 529 KOLANALLI KUTTAPPALAYAM PRIMARY
AGRICULTURAL CO-OPERATIVE CREDIT SOCIETY LTD.,
REP. BY ITS SECRETARY,
K.M.SETHUPATHI, S/O.MALAIYANAN
NO.4/4, KUTTAPPALAYAM KOLANALLI.

... PETITIONER in W.P.No.4448 of 2020

1 K 114 GOBICHETTIPALAYAM PUBLIC SERVANTS
CO OP THRIFT AND CREDIT SOCIETY LIMITED,
REPRESENTED BY ITS SECRETARY MR.S.K.SRINIVASAN,
NO.6, FIRST STREET, SEETHAMMAL COLONY,
NAGARPALAYAM ROAD, GOBICHETTIPALAYAM,
ERODE - 638452.
PAN: AABAG9929Q

... PETITIONER in W.P.No.6455 of 2020

1 K 461 SENGODAGOUNDENPUDUR PRIMARY AGRICULTURAL
COOPERATIVE CREDIT SOCIETY LTD.,
REP. BY ITS SECRETARY M.SARASWATHI,
F/45 S/O.BALASUBRMANI,
ARASUR, ARASUR POST, SULUR,
COIMBATATORE - 641 407

... PETITIONER in W.P.No.7014 of 2020

1 K.1645 KURUNALLIPALAYAM PRIMARY AGRICULTURAL
COOPERATIVE CREDIT SOCIETY LTD.,
REP. BY ITS SECRETARY N.MANI S/O.NANJUDASAMY,
NO.7/30 NALLATTIPALAYAM, KINATHUKADAVU TALUK,
COIMBATORE DISTRICT.

... PETITIONER in W.P.No.17938 of 2019

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1 K 142 ANGALAKURICHI PRIMARY AGRICULTURAL
COOPERATIVE CREDIT SOCIETY LTD.,
REP. BY ITS SECRETARY,
A.K.KALIMUTHU, S/O.KARUPPUSAMY,
ANGALAKURICHI - 642 007,
POLLACHI TALUK, COIMBATORE DISTRICT.

... PETITIONER in W.P.No.17963 of 2019

1 K.1662 J.KRISHNAPURAM PRIMARY AGRICULTURAL
COOPERATIVE CREDIT SOCIETY LTD.,
REP. BY ITS SECRETARY,
D.KATHIRVEL, S/O.DURAISAMY J.,
KRISHNAPURAM AND POST - 641 671
KETHANUR VIA, SULUR TALUK,
COIMBATORE DISTRICT.

... PETITIONER in W.P.No.17954 of 2019

1 T.P.SPL.45 VADAPUDUR PRIMARY AGRICULTURAL
COOPERATIVE CREDIT SOCIETY LTD.,
REP. BY ITS SECRETARY V.MOORTHY,
M/47 S/O.VELUSAMY, NO.2/186, VADAPUDUR,
EZHOOR POST - 641 032,
KINATHUKADAVU TALUK,
COIMBATORE DISTRICT.

... PETITIONER in W.P.No.17944 of 2019

1 DR (L)C.13 KINATHUKADAVU COOPERATIVE PRIMARY
AGRICULTURE AND RURAL DEVELOPMENT BANK LTD.,
REP. BY ITS SECRETARY N.SENTHILKUMAR,
S/O.C.NAGARATHINAM,
KINATHUKADAVU - 642 109,
COIMBATORE DISTRICT.

... PETITIONER in W.P.No.17957 of 2019

1 K.1535 VADACHITTUR PRIMARY AGRICULTURAL
COOPERATIVE CREDIT SOCIETY LTD.,
REP. BY ITS SECRETARY S.ARUMUGAM S/O.SIVASAMY,
NO.115A-1, ANNA NAGAR 1ST STREET,
KINATHUKADAVU AND TALUK,
COIMBATORE DISTRICT.

... PETITIONER in W.P.No.17950 of 2019

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1 K.484 PUNJAIKALAMANGALAM PRIMARY
AGRICULTURAL CO-OPERATIVE CREDIT SOCIETY,
REP. BY ITS PRESIDENT M.CHINNASAMY,
S/O.MUTHUSAMY GOUNDER, PUNJAIKALAMANGALAM,
GANAPATHIPALAYAM POST,
MODAKURUCHI, ERODE DISTRICT.

... PETITIONER in W.P.No.20711 of 2019

1 A.A.398 KUPPANDAMPALAYAM PRIMARY
AGRICULTURAL COOPERATIVE CREDIT SOCIETY,
REP. BY ITS SECRETARY K.K.LOGANATHAN,
S/O.KOMARASAMY GOUNDER,
KARATTUR, KUPPANDAMPALAYAM POST,
ATHANI VIA, ANTHIYUR TK, ERODE DISTRICT.

... PETITIONER in W.P.No.20767 of 2019

1 THE POLLACHI NORTH COOPERATIVE PRIMARY
AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD.,
D.R.L.C.5 REP. BY ITS SECRETARY,
A.MOHAMED THAJULLAH M/33 S/O.MOHAMED AMANULLAH,
NO.69, VALLALAR STREET, VENKATESA COLONY,
POLLACHI – 642 001, COIMBATORE DISTRICT.

... PETITIONER in W.P.No.25806 of 2019

.Vs.

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CPC, BANGALORE - 560 500.

2 THE INCOME TAX OFFICER,
WARD 2 (1), ERODE.

3 THE BRANCH MANAGER,
ERODE DISTRICT CENTRAL COOPERATIVE BANK,
TN PALAYAM, ERODE.

... RESPONDENTS in W.P.No.7038 of 2020

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTRE,
BANGALORE – 560500.

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2 THE INCOME TAX OFFICER,
WARD 2 (5), ERODE.

3 THE GENERAL MANAGER,
ERODE DISTRICT CENTRAL COOPERATIVE BANK LIMITED,
NO.1, BHAVANI MAIN ROAD,
THIRUNAGAR COLONY,
ERODE - 638 003.

... RESPONDENTS in W.P.No.7043 of 2020

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER (CPC),
INCOME TAX DEPARTMENT,
BENGALURU - 560 500.

... RESPONDENT in W.P.No.4901 of 2020

1 THE DEPUTY COMMISSIONER OF INCOME TAX
CENTRALIZED PROCESSING CENTER (CPC),
INCOME TAX DEPARTMENT,
BENGALURU - 560 500.

... RESPONDENT in W.P.No.4441 of 2020

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER (CPC),
INCOME TAX DEPARTMENT,
BENGALURU - 560 500.

... RESPONDENT in W.P.No.4448 of 2020

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTRE,
BANGALORE - 560 500.

2 THE INCOME TAX OFFICER,
WARD 2 (1), ERODE.

3 THE BRANCH MANAGER,
ERODE DISTRICT CENTRAL CO-OPERATIVE BANK,
GOBICHETTIPALAYAM.

... RESPONDENTS in W.P.No.6455 of 2020

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1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER (CPC),
BENGALURU - 560 500.

... RESPONDENT in W.P.No.7014 of 2020

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER (CPC),
BENGALURU - 560 500

... RESPONDENT in W.P.No.17938 of 2019

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER (CPC),
BENGALURU - 560 500.

... RESPONDENT in W.P.No.17963 of 2019

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER (CPC),
BENGALURU - 560 500.

... RESPONDENT in W.P.No.17954 of 2019

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER (CPC),
BENGALURU - 560 500.

... RESPONDENT in W.P.No.17944 of 2019

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER (CPC),
BENGALURU - 560 500.

... RESPONDENT in W.P.No.17957 of 2019

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER (CPC),
BENGALURU - 560 500.

... RESPONDENT in W.P.No.17950 of 2019

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1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER,
INCOME TAX DEPARTMENT,
BENGALURU - 560 500.

... RESPONDENT in W.P.No.20711 of 2019

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER,
INCOME TAX DEPARTMENT,
BENGALURU - 560 500.

... RESPONDENT in W.P.No.20767 of 2019

1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRALIZED PROCESSING CENTER (CPC),
BENGALURU - 560 500.

... RESPONDENT in W.P.No.25806 of 2019

PRAYER:-

These Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari,

W.P.NO.7038 OF 2020:-

Calling for the records of the first respondent in PAN. No. AADAA8893M - Communication Reference No.CPC/1819/A5/1901971884 relating to the assessment year 2018-19, quash the proceedings dated 29.06.2019 issued under Section 143(1) of the Income Tax Act.

W.P.NO.7043 OF 2020:-

Calling for the records of the first respondent in PAN No.AABAS1338R Communication Reference No.CPC/1819/A5/1967888490 for the assessment year 2018-19, quash the proceedings dated 22.12.2019 issued under Section 143(1) of the Income Tax Act.

W.P.NO.4901 OF 2020:-

Calling for the entire records relating to the impugned order passed by the respondent in Demand Identification No.20192018370317081l5T, dated 29.06.2019 and quash the same.

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W.P.NO.4441 OF 2020:-

Calling for the entire records relating to the impugned order passed by the respondent in Demand Identification No.20192018370370932 34T, dated 09/08/2019 and quash the same.

W.P.NO.4448 OF 2020:-

Calling for the entire records relating to the impugned order passed by the respondent in Demand Identification No.20192018370546862 34T, dated 22/10/2019 and quash the same.

W.P.NO.6455 OF 2020:-

Calling for the records of the 1st respondent in PAN NO.AABAG9929Q in Order No.CPC/1819/A5/1870649044 issued therein for the assessment year 2018-19 and quash the intimation under Section 143(1) of the Income Tax Act, dated 29.06.2019.

W.P.NO.7014 OF 2020:-

Calling for the entire records relating to the impugned order passed by the respondent in demand identification No.20192018370275789 71T, dated 31/05/2019 and quash the same.

W.P.NO.17938 OF 2019:-

Calling for the entire records relating to the impugned order passed by the respondent in Demand Identification No.20192018370276165 85T, dated 31.05.2019 and quash the same.

W.P.NO.17963 OF 2019:-

Calling for the entire records relating to the impugned order passed by the respondent in Demand Identification No.20192018370275517 96T, dated 31.05.2019 and quash the same.

W.P.NO.17954 OF 2019:-

Calling for the entire records relating to the impugned order passed by the respondent in Demand Identification No.20192018370277927 41T, dated 31.05.2019 and quash the same.

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W.P.NO.17944 OF 2019:-

Calling for the entire records relating to the impugned order passed by the respondent in Demand Identification No.20192018370275316 60T, dated 31.05.2019 and quash the same.

W.P.NO.17957 OF 2019:-

Calling for the entire records relating to the impugned order passed by the respondent in Demand Identification No.20192018370276278 83T, dated 31.05.2019 and quash the same.

W.P.NO.17950 OF 2019:-

Calling for the entire records relating to the impugned order passed by the respondent in Demand Identification No.20192018370275399 16T, dated 31.05.2019 and quash the same.

W.P.NO.20711 OF 2019:-

Calling for the entire records relating to the Impugned order passed by the respondent in Demand Identification No.20192018370308609 14T, dated 25.06.2019 and quash the same.

W.P.NO.20767 OF 2019:-

Calling for the entire records relating to the impugned order passed by the respondent in Demand Identification No.20192018370276386 72T, dated 31.05.2019 and quash the same.

W.P.NO.25806 OF 2019:-

Calling for the entire records relating to the impugned order passed by the respondent in Demand Identification No.20192018370317071 03T, dated 29.06.2019 and quash the same.

For Petitioner : Mr.P.V.Sudakar
in W.P.No.7038 & 7043 of 2020

Mr.C.Prakasam
in W.P.Nos.17938, 17944, 17950, 17954, 17957, 17963, 20711, 20767, 25806 of 2019 and 7014 of 2020

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No Appearance
in W.P.Nos.4441,4901 &
4448 of 2020

Mr.R.L.Ramani,
Senior Counsel for Mr.P.V.Sudakar
in W.P.No.6455 of 2020

For Respondents : Mrs.Hema Muralikrishnan,
Senior Standing Counsel
in all Wps.

Mr.L.P.Shanmugasundaram,
Special Government Pleader for R3
in W.P.Nos.7038, 7043 &
6455 of 2020

C O M M O N O R D E R

These 16 writ petitions have been filed by Co-operative Societies, being either Primary Agricultural Co-operative Credit Societies, Thrift Societies, Employees Societies or other categories of Co-operative Societies, and challenge intimations under Section 143 (1) of the Income Tax Act, 1961 (in short 'Act'). The year of assessment in all cases is 2018-19.

2. The admitted facts are:

(i) None of the Societies have filed returns of income within the time stipulated under Section 139 of the Act and returns have been filed belatedly on various dates,

(ii) The Central Processing Centre (CPC), upon receipt of the returns filed, had issued communications proposing an adjustment in terms of Section 143(1)(a) of the Act. The reason for the proposed adjustment is 'error/incorrect claim/ inconsistency' and the details are set out in Part A of the communication reading as follows:

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PART – A

Adjustment u/s.143(1)(a)

(ii)	Incorrect Claim u/s.143(1)(a)(ii)				
Sl. No.	Schedule	Error Description	Amount in Income Tax Return	Amount as computed	Variance on account of Proposed adjustment
1	Schedule VIA	In schedule VI-A, under Part-C deduction in respect of certain incomes, in Sl.No.2.1 deduction is claimed under Section 80P however return is not filed within due date	1537745	0	1537745

(iii) None of the petitioner societies have either responded to the notices or furnished any explanation in regard to the proposed alleged adjustment.

(iv) In view of the utter silence on the part of the petitioner, the proposals have come to culminate in the intimations impugned in these writ petitions.

3. The challenge to the intimations is on the ground that they do not confirm to the prescription of Section 143(1)(a) of the Act. Mr.Sudhakar and Mr.Prakasam, Mr.Karthikeyan not being present before the Court, would argue that the provisions of Section 143(1)(a) of the Act can only be invoked in cases where there are (i) patent arithmetical errors, (ii) an incorrect claim, such incorrect claim being apparent from any information/ entry contained in the return, (iii) disallowance of loss claimed if the returns were filed beyond the due date, (iv) disallowance of expenditure indicated in the audit report but not taken into account in computing total income (v) disallowance of deduction claimed under specified provisions of the Act if the return was filed beyond due date or (vi) additional income appearing in Form 26AS or 16A or 16,

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which has not been taken into account in computing total income. According to them, there is no error as aforesaid that emanates from the returns of income filed by the petitioners and as such, the invocation of Section 143 (1)(a) of the Act is itself flawed.

4. Per contra, Mrs.Hema Muralikrishnan, learned Senior Standing Counsel for the Revenue would argue that the error arises from the fact that the returns of income have been filed belatedly and beyond the dates stipulated under Section 139 of the Act. There is no doubt or dispute in this regard. Hence, the claim under Section 80P could not have been putforth in the light of provisions contained in Section 80AC(ii) as it stood post amendment with effect from 01.04.2018.

5. Learned counsel for the petitioners would than argue that the Explanation under Section 143(1)(a) of the Act explains 'an incorrect claim' for the purpose of Clause (ii) of Section 143 (1) (a) of the Act, as meaning a claim based on an entry in a return of income. According to them, the date of return does not constitute an 'entry' and hence no adjustment is called for on this score.

6. Section 143 (1) (a) of the Act reads thus:-

> '143.(1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:—
>
> (a) the total income or loss shall be computed after making the following adjustments, namely:—
>
> (i) any arithmetical error in the return;
>
> (ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;
>
> (iii) disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;
>
> (iv) disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return;
>
> (v) disallowance of deduction claimed under sections 10AA,80-IA,80-IAB,80-IB,80-IC,80-ID or section 80-IE, if the return is furnished beyond

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the due date specified under sub-section (1) of section 139; or

(vi) addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return:

Provided that no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode:

Provided further that the response received from the assessee, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such intimation, such adjustments shall be made:'

7. The scope of an 'intimation' under Section 143 (1) (a) of the Act, extends to the making of adjustments based upon errors apparent from the return of income and patent from the record. Thus to say that the scope of 'incorrect claim' should be circumscribed and restricted by the Explanation which employs the term 'entry' would, in my view, not be correct and the provision must be given full and unfettered play. The explanation cannot curtail or restrict the main thrust or scope of the provision and due weightage as well as meaning has to be attributed to the purposes of Section 143(1)(a) of the Act.

8. The provisions of Section 80AC(ii) make it clear that any deduction that is claimed under Part C of Chapter VIA would be admissible only if the return of income in that case were filed within the prescribed due date. Thus no claim under any of the provisions of Part C of Chapter VIA would be admissible in the case of a belated return. There is no dispute on this position. The date of filing of a return of income would be apparent on the face of return and upon a perusal thereof, it would be clear as to whether the return is a valid return, having been filed within the statutory time limit, or a belated one. This is mechanical exercise and one that can be carried out by the CPC, very much within the scope of Section 143 (1) (a) (ii) of the Act.

9. The conduct of the petitioners is also relevant. Not only have the returns been filed belatedly but the petitioners have also chosen not to co-operate in the conduct of assessment. They are admittedly in receipt of the defect notices from the CPC, but have not bothered to respond to the same. The writ petitions have themselves been filed belatedly and after the

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elapse of more than six to eight months from the dates of impugned orders, in all cases. It is only when the Revenue has initiated proceedings for recovery by attachment of bank accounts have the petitioners approached this Court. This factor also strengthens my resolve that these are not matters warranting interference in terms of Article under Section 226 of the Constitution of India, quite apart from the decision that I have arrived at on the legal issue.

10. These writ petitions are dismissed and connected Miscellaneous Petitions are also closed.

11. W.M.P.Nos.14346, 16166, 16167, 16171, 16225, 16226 of 2020 and 2654 of 2021 have been filed by the Revenue seeking to vacate the stay originally granted by this Court. The MPs do not figure in the main list and I have hence directed that the same be listed today by way of a special list. The MPs also stand closed in light of my order as above. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rkp

To

1. The Deputy Commissioner of Income Tax,
   CPC, Bangalore – 560 500.

2. The Income Tax Officer,
   Ward 2 (1), Erode.

3. The Income Tax Officer,
   Ward 2 (5), Erode.

4. The General Manager,
   Erode District Central Cooperative Bank Ltd.,
   No.1, Bhavani Main Road,
   Thirunagar Colony,
   Erode – 638 003.

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5. The Branch Manager,
Erode District Central Cooperative Bank Ltd.,
Gobichettipalayam, Erode.

+1cc to Mrs.Hema Muralikrishnan, Advocate, S.R.No.22063
+2ccs to Mr.B.Raveendran, Advocate, S.R.Nos.22262, 22264
+1cc to the Special Government Pleader(Co-Op), S.R.Nos.22207 to 22209

W.P.NOS.7038, 7043, 4901, 4441, 4448, 6455 & 7014 OF 2020 AND 17938, 17963, 17954, 17944, 17957, 17950, 20711, 20767 & 25806 OF 2019

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W.M.P.NOS.8392, 8393, 8395, 8400, 8401, 8403, 7625, 7622, 5799, 5801, 7623, 5257, 5259, 5266, 5267, 8366, 8369, 14346, 16166, 16167, 16171, 16225 & 16226 OF 2020, 17360, 17379, 17367, 17343, 17346, 17352, 19868, 19869, 19934, 19937, 25253, 25254 OF 2019 AND 2654 OF 2021

SKY(CO)
PBS/05/10/2021

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