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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:15.04.2021

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH

WRIT PETITION NOS.9100, 9103, 9106 AND 9108 OF 2021
AND

WMP NOS.9643, 9648, 9651 AND 9654 OF 2021

A.A.510 Kurumandur Primary Agricultural
Cooperative Credit Society,
represented by its Secretary
S.Suvaraju
Kurumandur Post - 638 457
Nambiyur Taluk, Erode District.

.. Petitioner in W.P.No.9100 of 2021

K.619 Panagattor Primary Agricultural
Cooperative Credit Society,
represented by its Secretary
O.S.Shanmugam
Panangattor, Ayyampalayam Post - 638 455
Kavandapadi via, Erode District.

.. Petitioner in W.P.No.9103 of 2021

AA 506 Koodakkarai Primary Agricultural
Cooperative Credit Society,
represented by its Secretary
P.Velliangiri
Koodakkarai Post - 638 454
Kasipalayam Via, Nambiyur Taluk,
Erode District.

.. Petitioner in W.P.No.9106 of 2021

AA 55 Alukkuli Primary Agricultural
Cooperative Credit Society,
represented by its Secretary
N.D.Gomathi, Alukkuli Post - 638 458
Gobi Taluk, Erode District.

.. Petitioner in W.P.No.9108 of 2021

Vs

1 The Commissioner of Income Tax (Appeals)
CIT(A), Coimbatore - 3.

...1st Respondent in the above W.Ps



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2. The IncomeTax Officer,
Ward 2 (1), Eorde, Income Tax Office,
No.15, Gandhiji Road, Erode - 638 001.

...2nd Respondent in W.P.Nos.9100, 9103 and
9106 of 2021

3. The Assistant Director of Income Tax,
Centralized Processing Center, (CPC),
Income Tax Department, Bengaluru - 560 500

.... 2nd Respondent in W.P.No.9108 of 2021

Prayer in W.P.No.9100 of 2021:

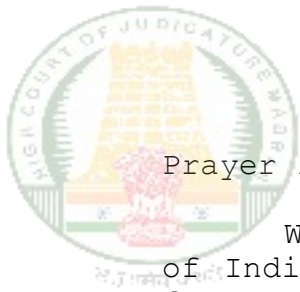
Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus forbearing the respondents from taking any coercive action against the petitioner society viz., A.A.510 Kurumandur Primary Agricultural Cooperative Credit Society, Kurumandur Post - 638 457, Nambiyur Taluk, Erode District till the disposal of the Appeal filed by the petitioner society on 07.02.2020 pending before the 1st respondent.

Prayer in W.P.No.9103 of 2021:

Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus forbearing the respondents from taking any coercive action against the petitioner society viz., K.619 Panagattor Primary Agricultural Cooperative Credit Society, Panangattor, Ayyampalayam Post - 638 455 Kavandapadi via, Erode District till the disposal of the Appeal filed by the petitioner society on 28.01.2020 pending before the 1st respondent.

Prayer in W.P.No.9106 of 2021:

Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus forbearing the respondents from taking any coercive action against the petitioner society viz., AA 506 Koodakkarai Primary Agricultural Cooperative Credit Society, Koodakkarai Post - 638 454 Kasipalayam Via, Nambiyur Taluk, Erode District till the disposal of the Appeal filed by the petitioner society on 07.02.2020 pending before the 1st respondent.



Prayer in W.P.No.9108 of 2021:

Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus forbearing the respondents from taking any coercive action against the petitioner society viz., AA Alukkuli Primary Agricultural Cooperative Credit Society, Alukkuli Post - 638 458, Gobi Taluk, Erode District till the disposal of the Appeal filed by the petitioner society on 03.08.2020 pending before the 1st respondent.

For Petitioners : Mr.C.Prakasam
in all WPs

For Respondents : Mr.ANR.Jayaprathap
in all WPs Government Advocate

C O M M O N O R D E R

Heard Mr.C.Prakasam, learned counsel for the petitioner and Mr.ANR.Jayaprathap, learned Special Government Pleader, who accepts notice for the respondents and expresses his readiness to proceed with the matter finally even at the stage of admission. Hence, by consent of both sides, these Writ Petitions are disposed finally at this stage.

2. The petitioners, who claim to be Primary Agricultural Cooperative Society based in Erode District, suffered order of assessments passed in terms of the provisions of the Income Tax Act, 1961 (in short 'Act') on 06.11.2019 for the Assessment Year (AY) 2013-14 (W.P.No.9100 of 2021), 30.12.2019 for AY 2010-11 (W.P.No.9103 of 2021), 18.11.2010 for AY 2017-18 (W.P.No.9106 of 2021) and 22.07.2020 for AY 2019-20 (W.P.No.9108 of 2021), which are, admittedly, pending in appeal before the Commissioner of Income Tax (Appeals)/R1. No application for stay of the disputed tax appears to have been filed, either before the Assessing Authority for not being treated as assessee in default in terms of Section 220 (6) of the Act or seeking interim protection before the Administrative/Appellate Commissioner.

3. On account of non-payment of disputed arrears of tax, R2 has issued communications dated 11.12.2020, 27.11.2020, 10.12.2020 and 05.01.2021 pointing out that there are arrears that arise from non-payment of demands raised in the orders of assessment and if the same were not remitted immediately, then action will be initiated to recover the same. The petitioners have thus approached this Court seeking a mandamus forbearing the respondents from taking coercive action as threatened.



4. There is no merit in the prayer sought for, insofar as the demand raised in the orders of assessment is, admittedly, payable till such time it is stayed either by the Assessing Authority or by any superior authority. The petitioners have not even filed an application seeking stay. In such circumstances, there is no justification for the prayer sought in these Writ Petitions, and hence the same are dismissed.

5. The petitioners, however, may, if they so desire, approach the appropriate authority seeking interim protection and if any such application seeking interim protection is filed, let the same be disposed in accordance with law and in line with the parameters stipulated in this regard within a period of four (4) weeks from date of receipt of the same. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Commissioner of Income Tax (Appeals)
CIT(A), Coimbatore - 3.
2. The IncomeTax Officer,
Ward 2 (1), Eorde, Income Tax Office,
No.15, Gandhiji Road, Erode - 638 001.
3. The Assistant Director of Income Tax,
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Income Tax Department, Bengaluru - 560 500

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and WMP Nos.9643, 9648, 9651 and 9654 of 2021

GPL(CO)
CS/22/06/2021