BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.4132 of 2022
and
W.M.P(MD).No.3550 and 3551 of 2022

Melur Co-operative Urban Bank Limited,
Represented by its Administrator,
Mrs.M.Uma,
D-317, Alagar Koil Road, Melur,
Madurai - 625 106. ... Petitioner

Vs.

1.Deputy Commissioner of Income Tax,
Corporate Circle,
No.2, VP Rathinaswamyanadar Road,
CR Building Bibikulam,
Madurai - 625 002.

2.Additional/Joint/Deputy/Assistant Commissioner,
of Income Tax/Income Tax Officer,
National Faceless Assessment Centre,
Ministry of Finance,
Income Tax Department,
New Delhi - 110 055. ...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the 2nd respondent dated 27.01.2022 in Order No.ITBA/AST/S/147/2021-22/ 1039126094 (1) for the Assessment Year 2017-18 passed under Section 147 read with Section 144 and 144B of the income tax Act and quash the same.

For Petitioner : Mrs.M.Ramya
For M/s.Mcgan Law Firm
For Respondents : Mr.N.Dilip Kumar
Senior Standing Counsel

ORDER

1. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

2. The petitioner is only a Co-operative Urban Bank. Nodoubt, there is a failure on the part of the petitioner in not filing statutory returns under Section 139 of the Income Tax Act, 1961 in time, nevertheless, the fact remains that after a notice was issued on 27.03.2021 to the petitioner, which was addressed to the E-mail Id of the petitioner’s auditor S.V.V.Ananthasayanam, who died on 04.07.2020. Thus, the communications preceeding the impugned order remained were not properly communicated to the petitioner. When the proceedings under Section 148 of the Act were initiated the whole country was still reeling under Covid-19 Pandemic. The time granted to the petitioner in the show cause notice, dated 14.01.2022 up to 18.01.2022 appears was too short.

3. Considering the fact that the petitioner could not reply to any of the notices issued earlier, which were addressed to the petitioner’s Auditor, namely, late S.V.V.Ananthasayanam, and considering the fact that the petitioner is bonfide assessee and has paid an advance tax on 15.03.2017, I am inclined to set aside the impugned order and remit the case back to the respondents to pass fresh order.

4. Accordingly, the impugned order is set aside and the case is remitted back to the second respondents to pass a fresh order denovo, on merits and in accordance with law preferably within a period of ninety days from the date of receipt of this order. The petitioner is directed to get ready with a reply and file the same within a period of fifteen days from date of the intimation from the office of the second respondent to reply to the show cause notice, dated 14.01.2022. The impugned order which stands quashed shall also be treated as a corrigendum to show cause notice, dated 14.01.2022 already issued to the petitioner. The petitioner shall place all the fact and give a consolidated reply before the second respondent.

5. The writ petition stands disposed of with the above observations. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.Deputy Commissioner of Income Tax,
Corporate Circle, Madurai
No.2, VP Rathinaswamyanadar Road,
CR Building Bibikulam,
Madurai - 625 002.

2.Additional/Joint/Deputy/Assistant Commissioner,
of Income Tax/Income Tax Officer,
National Faceless Assessment Centre,
Ministry of Finance,
Income Tax Department,
New Delhi - 110 055.

+1 CC to M/s.MCGAN LAW FIRM, Advocate (SR-10844[F] dated 09/03/2022)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-10914[F] dated 09/03/2022)

W.P(MD).No.4132 of 2022
08.03.2022

KS(CO)
TR(28.03.2022) 3P 5C