IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.05.2023

CORAM :

THE HONOURABLE MR.JUSTICE P.B.BALAJI

Writ Petition Nos.15324, 15327, 15328, 15329, 15330 and 15335 of 2023 and WMP.Nos.14831, 14832, 14839, 14840, 14838,14841, 14842, 14844, 14843, 14845, 14852 and 14854 of 2023

M/s.Thiruvannamalai Co-op Urban Bank Ltd
Represented by its Managing Director
Mrs.S.Devi, No.18/87, Sannathi Street
Tiruvannamalai. .... Petitioner in all W.Ps

-Vs-

Income Tax Officer, TDS
TDS Ward Vellore
Chennai-Wanaparthy Block
No.121, Mahatma Gandhi Road
Nungambakkam, Chennai – 600 034. .... Respondent in all W.Ps

Prayer in W.P.No.15324 of 2023 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent and quash the impugned order in ITBA/COM/F/17/2022-23/1051375033(1) dated 27.03.2023 under Section 201 of the Income Tax Act, 1961 passed by the respondent as illegal and not in accordance with law.

In All W.Ps.

For Petitioner : Mr.R.Sivaraman

For Respondent : Mr.B.Ramaswamy
Senior Standing Counsel for Income Tax

COMMON ORDER

These writ petitions have been filed seeking issuance of a Writ of Certiorari to call for the records on the file of the respondent and quash the impugned orders passed under Section 201 of the Income Tax Act, 1961 being illegal and not in accordance with law.

2. The brief common facts in all these writ petitions are that the writ petitioner is a Cooperative Society registered under the Tamil Nadu Cooperative Societies Act, 1983. The petitioner is assessed to tax on the file of the Income Tax Department in PAN No.AAEFT9897Q. According to the writ petitioner, in a survey conducted by the Department on 21.12.2022 under Section 133A (2A) of the Act, the Department called upon the petitioner to explain why the petitioner had not deducted TDS under Section 194A for interest payments during various financial years especially when such interest payments were above Rs.10,000/- and also called for necessary 15G and 15H forms from the petitioner. According to the petitioner, subsequently on 16.03.2023 the writ petitioner has submitted all the details as required by the Department. However, without adverting to the same, though acknowledging the receipt of all the details, the impugned orders came to be passed. In such circumstances, the petitioner is before this Court challenging the Section 201 proceedings.

3. Heard Mr.B.Ramaswamy, learned Senior Standing Counsel appearing for the

respondent Department, who took this Court through the impugned orders where, according to the learned Standing Counsel, the petitioner himself has admitted that the details furnished were incomplete.

3. This Court has perused the impugned orders and finds that even though the petitioner has admitted that they have not been able to furnish all the necessary particulars required by the Department, it is seen that it is only at the time of the survey. However, even from the impugned order it is seen that in para 5 under the hading 'Hearing letter calling for Interest payment details for the Financial Year' the Department has made the following remarks.

> “Interest payment details above and below Rs.10,000/- have been furnished vide email dated 16.03.2023.”

4. However, the learned Standing Counsel for the respondent Department contends that, even though such remark has been made, the details furnished by the writ petitioner was incomplete and therefore inadequate for the respondent to take them on file and pass suitable orders.

5. Considering the above and the limited scope involved in the writ petitions,

this Court is of the view that the interest of the petitioner as well as the Department would be satisfied if the impugned orders are set aside and the Department is directed to conduct a fresh enquiry affording an opportunity to the writ petitioner. Accordingly, the impugned orders are set aside and the respondent is directed to consider the details furnished by the petitioner on 16.03.2023 and if required call upon the petitioner to give full and complete details as may be required by the Department to fully and finally adjudicate the matter. This exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order and the writ petitioner shall extend its fullest cooperation to the Department.

6. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

11.05.2023

Index : Yes/No
Internet : Yes/No
KST

To

Income Tax Officer, TDS
TDS Ward Vellore
Chennai-Wanaparthy Block
No.121, Mahatma Gandhi Road
Nungambakkam, Chennai – 600 034.

P.B.BALAJI, J.

KST

W.P.Nos.15324, 15327, 15328, 15329, 15330 and 15335 of 2023

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