



W.P.Nos.18271, 18275, 18276, 18277 and 18279 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.18271, 18275, 18276, 18277 and 18279 of 2023

and

W.M.P.Nos.17468, 17469, 17476, 17479, 17475, 17477, 17478, 17480,
17482 and 17484 of 2023

M/s.Thiruvannamalai District Central
Cooperative Bank Limited,
Represented by its Managing Director
K.Jayam,
Collectorate Master Complex,
Vengikkal, Tiruvannamalai - 606 604.

... Petitioner in all W.Ps

Vs.

Income Tax Officer,
TDS Ward, Vellore,
Vellore-Income Tax Office,
No.2, Barracks Cross Street,
Officers Line,
Vellore, Tamil Nadu - 632 001.

... Respondent in all W.Ps



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Prayer in W.P.No.18271 of 2023: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondent and quash the impugned order in ITBA/COM/F/17/2022-2023/1051400379(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.

Prayer in W.P.No.18275 of 2023: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondent and quash the impugned order in ITBA/COM/F/17/2022-2023/1051405480(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.

Prayer in W.P.No.18276 of 2023: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondent and quash the impugned order in ITBA/COM/F/17/2022-2023/1051401446(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.

Prayer in W.P.No.18277 of 2023: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondent and quash the impugned order in ITBA/COM/F/17/2022-2023/1051406849(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.

Prayer in W.P.No.18279 of 2023: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondent and quash the impugned order in ITBA/COM/F/17/2022-2023/1051407851(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.



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For Petitioner : Mr.R.Sivaraman
(In all W.Ps)

For Respondent : Dr.B.Ramaswamy
(In all W.Ps) Senior Standing Counsel

COMMON ORDER

The petitioner has challenged the impugned Assessment Orders all dated 27.03.2023 passed under Section 201 of the Income Tax Act, 1961 (hereinafter referred to as the IT Act).

2. The impugned Assessment Orders precede a Show Cause Notices all dated 14.11.2022 issued to the petitioner for the Assessment Years 2016-2017 to 2020-2021 for the Financial Years 2015-2016 to 2019-2020.

3. The specific case of the petitioner is that the survey conducted on 24.08.2022 was followed by a summons dated 25.08.2022, in response to which, the petitioner has furnished all the details relating to proof of Form No.15G and Form No.15H by the depositors to whom interest was paid.

4. The further case of the petitioner is that none of the regular



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depositors have received interest over and above Rs.2,50,000/-. In the case of senior citizens, interest above Rs.3,00,000/- was not paid. Therefore, it is submitted that the question of deduction of tax at source for the depositors who submitted Form No.15G and Form No.15GH does not arise. Question of deduction of tax at source will not arise only where payment of interest exceeded the aforesaid amount.

5. The petitioner was called for hearing on various dates. However, the petitioner failed to participate in the proceedings and therefore the impugned Assessment Orders have been passed for the respective Assessment Years which are now under challenge before this Court in these writ petitions.

6. The learned counsel for the petitioner would submit that the petitioner has not appeared for personal hearing on account of various factors including the fact that the petitioner was required to distribute certain Government Incentives in January 2023 on account of Government Schemes.



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7. The learned Senior Standing Counsel for the respondent on the other hand would submit that the petitioner has an alternate remedy under Section 151 of the IT Act by way of an appeal before the Joint Commissioner.

8. That apart, it is submitted that the petitioner has not given a reply to the Show Cause Notices and had only sought time for personal hearing which was fixed on various dates.

9. It is therefore submitted that the respondent was constrained to pass the impugned Assessment Orders as the petitioner has been totally non-cooperative in the proceedings pursuant to the Show Cause Notices dated 14.11.2022 issued to the petitioner for the respective Assessment Years.

10. The learned Senior Standing Counsel for the respondent would submit that despite several opportunity granted to the petitioner to furnish the details, the petitioner has not furnished the break up of the interest paid to the citizens who have given Form No.15G and 15H as is



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required under Section 197A(1A) and 197A(1C) of the IT Act.

11. The learned Senior Standing Counsel for the respondent would further submit that any interference would set a wrong precedent for defaulting the assessee, who fail to cooperate with the assessment proceedings to challenge the Assessment Orders without filing of Form-C. Hence, prays for dismissal of the writ petition.

12. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent.

13. The petitioner is a Cooperative Bank which has paid interest to its depositors. While paying interest to the depositors, the petitioner has not deducted tax stating that the amount of interest varied between Rs.25,000/- to Rs.62,000/- in the case of those citizens who are below the age of 60 years and who had produced Form No.15G.

14. Section 197A(1A), 197A(1B) and 197A(1C) of the IT Act



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reads as under:-

<u>Section 197A</u> : No Deduction to be made in certain cases		
Section 197A(1A)	Section 197A(1B)	Section 197A(1C)
Notwithstanding anything contained in [Section 193 or] Section 194A or Section 194K, no deduction of tax shall be made under [any] of the said sections in the case of a person (not being a company or a firm), if such person furnishes to the person responsible for paying any income of the nature referred to in [Section 193 or] Section 194A or Section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income	The provisions of this section shall not apply where the amount of any income of the nature referred to in sub-section (1) or sub-section (1A), as the case may be, or the aggregate of the amounts of such incomes credited or paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the maximum amount which is not chargeable to income-tax.	Notwithstanding anything contained in Section 193 of Section 194 or Section 194A of Section 194EE or Section 194K or sub-section (1B) of this section, no deduction of tax shall be made in the case of an individual resident in India, who is the age of sixty-five years or more at any time during the previous year, if such individual furnishes to the person responsible for paying any income of the nature referred to in Section 193 or Section 194 of Section 194A or Section 194EE or Section 194K, as the case may be, a declaration in writing in effect



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Section 197A : No Deduction to be made in certain cases		
is to be included in computing his total income will be nil.		that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil.

15. The petitioner appears to have furnished few details prior to the issuance of the Show Cause Notices dated 14.11.2022 through e-mail dated 05.09.2022.

16. This has not been taken note of by the Assessing Officer. At the same time, the Assessing Officer cannot be found fault as the petitioner has failed to respond to the Show Cause Notices dated 14.11.2022 issued under Section 201(1)/201(1A) of the IT Act.

17. The petitioner was to not only respond but also appear for a personal hearing when the case was fixed for personal hearing on 24.11.2022 at about 11.29 a.m. Instead of appearing on the said date i.e., on 24.11.2022, the petitioner has replied as under:-



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"Sir,

Ref response to notice - TDS

With reference to the notices issued by your good office, we submit the following.

1. We have gathered the details mentioned in your notice for 3 years.

2. We are collecting details for other years - for which we need to get the details from Server Mumbai.

3. We have posted a separate person to gather these details.

4. We are committed to submit response at the earliest possible time.

Since we must obtain information for the earlier years, which is to be checked by auditors before submitting to your good office, we request you to allow us to submit the details on or before 6th December and oblige.

The inconvenience caused is regretted."

18. A similar reply was sent on 05.09.2022 stating that the petitioner has been appointed as a nodal body to implement the Social Welfare Scheme of the State Government.

19. It is in this background, the impugned Assessment Orders had been passed by the respondent on 27.03.2023. A reading of the representations/replies dated 24.11.2022 and 05.12.2022 indicates that the petitioner has not fully collated the information that was required to be furnished prior to the Show Cause Notices dated 14.11.2022, although



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the petitioner has furnished few details earlier by e-mail dated 05.09.2022. This ought to have been examined by the respondent while passing the impugned Assessment Orders.

20. Considering the above, no useful purpose will be served by directing the petitioner to file a statutory appeal under Section 251 of the IT Act before the Appellate Commissioner, although the Appellate Commissioner can call for a remand report.

21. Under these circumstances, the impugned Assessment Orders are set aside and the cases are remitted back to the respondent to pass a fresh order on merits and in accordance with law preferably within a period of three months from the date of receipt of a copy of this order.

22. It is made clear that the petitioner shall cooperate with the respondent and no further adjournment shall be entertained once the date is fixed for a personal hearing.

23. The petitioner shall file a reply to the said Show Cause Notices



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dated 14.11.2022 within a period of thirty days from the date of receipt of a copy of this order.

24. The impugned Assessment Orders which stand quashed shall be treated as a *corrigendum* to the said Show Cause Notices dated 14.11.2022.

25. These Writ Petitions are disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

19.09.2023

Index: Yes/ No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

Income Tax Officer,
TDS Ward, Vellore,
Vellore-Income Tax Office,
No.2, Barracks Cross Street,
Officers Line,
Vellore, Tamil Nadu - 632 001.

C.SARAVANAN, J.



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