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W.P. No. 30784 of 2022 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. Nos. 30784, 30786, 30841, 30912, 31104,
31274, 31277, 31279, 31464 and 33046 of 2022
and**

**W.M.P. Nos. 30210, 30211, 30256, 30316, 30516,
30519, 30705, 30708, 30709, 30925, 32454 and 32455 of 2022
and**

W.M.P. Nos. 8380 and 11193 of 2023

W.P. No. 30784 of 2022:-

The Transport Corporation Employees
Co-operative Thrift and Credit Society Ltd.,
Rep. by its Secretary,
Teynampet,
Chennai – 600 018.

... Petitioner

-VS-

The Managing Director,
Metro Transport Corporation,
Pallavan Illam,
Pallavan Salai,
Chennai – 600 002.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Letter in No. 44204/CPB/MTC/2022 dated 29.10.2022 issued by the Respondent Corporation, quash the same and consequently direct the Respondent Corporation



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to continue to deduct every month from the salary of its employees such amount in compliance with the provisions contained in Section 48 of the Tamil Nadu Co-operative Societies Act, 1983 read with Rule 69 of the Tamil Nadu Co-operative Societies Rules, 1988.

For Petitioner : Mr. S.Shanmugasundaram
for Mr. R.Murugabharathi

For Respondent : Mr. Ramanlal,
Additional Advocate General assisted by
Mr. A.Vinothraja

W.P. No. 30786 of 2022:-

The Transport Corporation Employees
Co-operative Thrift and Credit Society Ltd.,
Rep. by its Secretary,
Teynampet,
Chennai – 600 018.

... Petitioner

-VS-

The Managing Director,
State Express Transport Corporation Tamil Nadu Limited,
Thiruvalluvar House,
No. 2, Pallavan Salai,
Chennai – 600 002.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Letter in No. 001471/WAB1/SETCTN/2022 dated 03.11.2022 issued by the Respondent Corporation, quash the same and consequently direct the Respondent Corporation to continue to deduct every month from the salary of its employees such amount in compliance with the provisions contained in Section 48 of the Tamil Nadu



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Co-operative Societies Act, 1983 read with Rule 69 of the Tamil Nadu
Co-operative Societies Rules, 1988.

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For Petitioner : Mr. S.Shanmugasundaram
for Mr. R.Murugabharathi

For Respondent : Mr. Ramanlal,
Additional Advocate General assisted by
Mr. S.Sivasubramani

W.P. No. 30841 of 2022:-

J.J. 99 Metropolitan Transport Corporation Employees'
Co-operative Thrift and Credit Society Ltd.,
Rep. by its Secretary,
No. 30, Rajaji Street,
Radha Nagar,
Chrompet,
Chennai – 600 018.

... Petitioner

-VS-

The Managing Director,
Metropolitan Transport Corporation (Chennai) Limited,
Pallavan House,
Pallavan Salai,
Chennai – 600 002.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Letter in No. 44204/CPB/MTC/2022 dated 29.10.2022 issued by the Respondent Corporation, quash the same and consequently direct the Respondent Corporation to continue to deduct every month from the salary of its employees such amount in compliance with the provisions contained in Section 48 of the Tamil Nadu



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Co-operative Societies Act, 1983 read with Rule 69 of the Tamil Nadu
Co-operative Societies Rules, 1988.

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For Petitioner : Mr. S.Shanmugasundaram
for Mr. R.Murugabharathi

For Respondent : Mr. Ramanlal,
Additional Advocate General assisted by
Mr. A.Vinothraja

W.P. No. 30912 of 2022:-

M/s. Thiruvalluvar Transport Corporation
Employees Co-operative Credit Society Ltd.,
Represented by its Secretary,
Mr. K.Jayasankar,
No. 10, 23rd Street,
Jai Nagar,
Arumbakkam,
Chennai – 600 106.

... Petitioner

-VS-

State Express Transport Corporation Ltd.,
Represented by its Managing Director,
Pallavan Salai,
Chennai – 600 003.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Letter in No. 00147/WAB1/SETCTN/2022 dated 03.11.2022 issued by the Respondent Corporation and quash the same and consequently direct the Respondent Corporation to continue to deduct every month from the salary of its employees such amount as specified by the Petitioner Society in satisfaction of the debt owed by the employees to the Petitioner Society and pay the amount so deducted to the



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Petitioner Society within 14 days of such deduction as contemplated under Section 60 of the Multi-State Co-operative Societies Act, 2002.

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For Petitioner : Mr. S.Prabhakaran, Senior Counsel
for Mr. S.Conscious Ilango

For Respondent : Mr. Ramanlal,
Additional Advocate General assisted by
Mr. L.S.M.Hasan Fizal,
Additional Government Pleader

W.P. No. 31104 of 2022:-

Tamil Nadu State Transport Corporation (Salem Division – I)
Employees' Co-operative Thrift and Credit Society Ltd., S.S. 59,
Rep. by its Secretary,
No. 35, 1st Floor,
Advaida Ashiramam Road,
Salem – 636 004.

... Petitioner

-VS-

The Managing Director,
Tamil Nadu State Transport Corporation (Salem),
No. 12, Ramakrishna Road,
Salem – 636 007.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the order passed by the Respondent in Ka. No: pape/381/tha.a.po.ka(se)/2022 dated 05.10.2022, quash the same and direct the Respondent to continue to recover the dues from the members of the Petitioner Society and remit the same as per Section 48 read with Rule 69 of the Tamil Nadu Co-operative Societies Act and Rules.



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For Petitioner : Mr. M.S.Palaniswamy
For Respondent : Mr. Ramanlal,
Additional Advocate General assisted by
Mr. K.Raja, Standing Counsel

W.P. No. 31274 of 2022:-

The Tamil Nadu State Transport Corporation (Villupuram Division – III)
Employees Co-operative Thrift and Credit Society Ltd., No. GK 294,
Rep. by its Secretary,
No. 1/7A, Madhangeswara Kovil Street,
Kancheepuram,
Kancheepuram District.

... Petitioner

-vs-

The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Limited,
Villupuram,
Villupuram District – 605 602.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Letter in No. 23/0023/CA1/TNSTC (VPM)/2022 dated 08.11.2022 issued by the Respondent Corporation, quash the same and consequently direct the Respondent Corporation to continue to deduct every month from the salary of its employees such amount in compliance with the provisions contained in Section 48 of the Tamil Nadu Co-operative Societies Act, 1983 read with Rule 69 of the Tamil Nadu Co-operative Societies Rules, 1988.



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For Petitioner : Mr. S.Shanmugasundaram
for Mr. R.Murugabharathi

For Respondent : Mr. Ramanlal,
Additional Advocate General assisted by
Mr. R.Venkatesh Perumal,
Standing Counsel

W.P. No. 31277 of 2022:-

VPM.3 Villupuram District Government Transport Corporation
Employees Co-operative Thrift and Credit Society Ltd.,
Rep. by its Secretary,
No. 5, Vallalar Nagar,
Salamedu,
Villupuram,
Villupuram District.

... Petitioner

-VS-

The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Limited,
Villupuram,
Villupuram District – 605 602.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Letter in No. 23/0023/CA1/TNSTC (VPM)/2022 dated 08.11.2022 issued by the Respondent Corporation, quash the same and consequently direct the Respondent Corporation to continue to deduct every month from the salary of its employees such amount in compliance with the provisions contained in Section 48 of the Tamil Nadu Co-operative Societies Act, 1983 read with Rule 69 of the Tamil Nadu Co-operative Societies Rules, 1988.



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For Petitioner : Mr. S.Shanmugasundaram
for Mr. R.Murugabharathi

For Respondent : Mr. Ramanlal,
Additional Advocate General assisted by
Mr. R.Venkatesh Perumal,
Standing Counsel

W.P. No. 31279 of 2022:-

Tamil Nadu State Transport Corporation Villupuram
Employees Co-operative Thrift and Credit Society Ltd., XC – 216,
Rep. by its Secretary,
No. 257, Angappanaicken Street,
No. 4 A, 4th Floor,
Chennai – 600 001.

... Petitioner

-VS-

The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Limited,
Villupuram,
Villupuram District – 605 602.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Letter in No. 23/0023/CA1/TNSTC (VPM)/2022 dated 08.11.2022 issued by the Respondent Corporation, quash the same and consequently direct the Respondent Corporation to continue to deduct every month from the salary of its employees such amount in compliance with the provisions contained in Section 48 of the Tamil Nadu Co-operative Societies Act, 1983 read with Rule 69 of the Tamil Nadu Co-operative Societies Rules, 1988.



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For Petitioner : Mr. S.Shanmugasundaram
for Mr. R.Murugabharathi

For Respondent : Mr. Ramanlal,
Additional Advocate General assisted by
Mr. R.Venkatesh Perumal,
Standing Counsel

W.P. No. 31464 of 2022:-

The Transport Corporation Employees
Co-operative Thrift and Credit Society Ltd.,
Rep. by its Secretary,
Teynampet,
Chennai – 600 018.

... Petitioner

-VS-

The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Limited,
Villupuram,
Villupuram District – 605 602.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Letter in No. 23/0023/CA1/TNSTC (VPM)/2022 dated 08.11.2022 issued by the Respondent Corporation, quash the same and consequently direct the Respondent Corporation to continue to deduct every month from the salary of its employees such amount in compliance with the provisions contained in Section 48 of the Tamil Nadu Co-operative Societies Act, 1983 read with Rule 69 of the Tamil Nadu Co-operative Societies Rules, 1988.



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For Petitioner : Mr. S.Shanmugasundaram
for Mr. R.Murugabharathi

For Respondent : Mr. Ramanlal,
Additional Advocate General assisted by
Mr. Aswin, Standing Counsel

W.P. No. 33046 of 2022:-

D.D. 158, Tamil Nadu State Transport Corporation (Salem Division – II)
Employees' Co-operative Thrift and Credit Society Ltd.,
Rep. by its Secretary,
No. 66 Feet Road,
Bharathipuram,
Dharmapuri – 636 007.

... Petitioner

-VS-

The Managing Director,
Tamil Nadu State Transport Corporation (Salem),
No. 12, Ramakrishna Road,
Salem – 636 007.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the order passed by the Respondent in Ka. No: pape/381/tha.a.po.ka(se)/2022 dated 29.11.2022, quash the same and direct the Respondent to continue to recover the dues from the members of the Petitioner Society and remit the same as per Section 48 read with Rule 69 of the Tamil Nadu Co-operative Societies Act and Rules.



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For Petitioner : Mr. M.S.Palaniswamy
For Respondent : Mr. Ramanlal,
Additional Advocate General assisted by
Mr. K.Raja, Standing Counsel

COMMON ORDER

Heard Mr. S.Prabhakaran, Learned Senior Counsel,
Mr. S.Shanmugasundaram and Mr. M.S.Palaniswamy, Learned Counsel appearing
for the Petitioners and Mr. Ramanlal, Learned Additional Advocate General
appearing for the Respondents and perused the materials placed on record, apart
from the pleadings of the parties.

2. The Respondent in each of these Writ Petitions are the State Transport Corporations, which are wholly owned by the Government of Tamil Nadu. The employees of the respective Transport Corporations have formed Employees' Co-operative Credit Societies, who are the Petitioners in these Writ Petitions, are governed by the provisions of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the TNCS Act' for short). The employees of the Respondents, who are the members of the co-operative societies of the Petitioners, have availed personal loans from the Petitioners and the recovery of the equated



monthly installments (EMI) for those personal loans are effected by making deductions from the salaries paid by the Respondents to their respective employees. The said arrangement for recovery by the Petitioners from the monthly salaries of their members, who have availed personal loans, through the Respondents, as their employer, has been incorporated in Section 48 of the TNCS Act and Rule 69 and Form Nos. 29, 30 and 31 in Schedule – I of the Tamil Nadu Co-operative Societies Rules, 1988, (hereinafter referred to as 'TNCS Rules' for short) which are extracted below:-

Section 48 of TNCS Act

Deduction from salary, wages or gratuity.____

(1) A member of a registered society may execute an agreement in favour of that society providing that-

(a) his employer or the officer disbursing his salary or wages shall be competent, on a requisition in writing from the society to deduct every month from the salary or wages payable to him such amount as may be specified in the requisition towards the amount; and



(b) *if he ceases to be an employee, his employer shall be competent on a requisition in writing from the society to deduct from the gratuity payable to such employee such amount as may be specified in the requisition towards the entire balance, due by him to the society in respect of any debt or other demand owing by the member to the society.*

(2) (a) *Where any such agreement as is referred to in sub-section (1) has been executed by a member of a registered society, the employer or the officer disbursing the salary or wages of such member shall, on receipt of a requisition from the society, make the deduction from the salary or wages or the gratuity, as the case may be, payable to the member in accordance with the requisition, and pay, within a period of fourteen days from the date on which such deduction is made in respect of any society or class of societies, the amount so deducted to the society.*



- (b) *Where the amount to be deducted in any month in accordance with the requisition made by a society, or where a requisition has been made by two or more societies in respect of the same person, the total amount to be deducted in accordance with all the requisitions exceeds one-half of his gross salary or wages for the month, the employer or the officer disbursing the salary or wages shall deduct from the salary or wages of such person only a sum representing one-half of his gross salary or wages for the month. The amount deducted shall, where deductions have been made against requisitions received from two or more societies, be paid by the employer or the officer disbursing the salary or wages to all the societies in proportion to the amounts to be deducted according to their requisitions: Provided that where any amount is due to such class of registered societies as may be prescribed, the entire net salary or wages for the month or such portion thereof as may be*



prescribed in respect of any such class of societies may be deducted and paid as aforesaid.

- (c) *Where a requisition has been made by two or more societies for deduction from the gratuity in respect of the same person, the amount deducted from the gratuity shall be paid by the employer to all the societies in proportion to the amounts to be deducted according to their requisitions.*
- (3) *The employer or the officer disbursing the salary or wages shall maintain such registers as may be prescribed.*
- (4) *The provisions of this section shall apply to all such agreements of the nature referred to in sub-section (1) as are in force at the commencement of this Act and also to agreements of the said nature executed by the members of any society registered or deemed to be registered in any other State having reciprocal arrangements with the State of Tamil Nadu.*
- (5) *The requisition in writing from any society registered or deemed to be registered in any other State having reciprocal*



arrangements with the State of Tamil Nadu in respect of a member of that society who, for the time being is employed in the State of Tamil Nadu, received by his employer or the officer disbursing the salary or wages of such member, shall be acted upon as if such requisition had been made by a society registered in the State of Tamil Nadu and the provisions of sub-section (2) in so far as it applies to a requisition made under sub-section (1) shall apply to requisition made under this sub-section.

- (6) *If any employer or the officer disbursing the salary or wages of any such member as is referred to in sub-section (1) or sub-section (5), fails to comply with any of the provisions of this section, he shall be punishable with fine which may extend to five thousand rupees and in the case of a continuing offence, with further fine of five hundred rupees for each day on which the offence is continued after conviction therefor.*
- (7) *The provisions of this section shall apply notwithstanding any law to the contrary for the time being in force.*



- (8) *Without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, any sum deducted under sub-section (2) or sub-section (5) but not paid to the society within a period of fourteen days on which such deduction is made may be recovered together with the interest at such rate as may be prescribed from the date of such deduction and the costs involved in such recovery as if it were an arrear of land revenue and for the purposes of such recovery, the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).*
- (9) *Nothing contained in this section shall apply to establishments under a railway administration operating any railway as defined in clause (20) of Article 366 of the Constitution. Explanation.____ For the purpose of this section and the Explanation under clause (a) of section 143 “State having reciprocal arrangements with the State of Tamil Nadu” means such State having reciprocal arrangements as the Government may, by notification, specify in this behalf.*



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and

Rule 69 TNCS Rules

Deduction from the salary or wages. –

- (1) Every agreement under sub-section (1) of section 48 shall be in Form No.28. Upon the execution of such agreement, the society shall send intimation of the execution of the agreement to the employer or the officer disbursing the salary or wages of the member who has executed the agreement and furnish the said employer or officer with a copy of such agreement.*
- (2) In respect of every member who had executed such agreement and in respect of whom intimation has been sent under sub-rule (1), the society may send to the employer or the officer disbursing the salary or wages of the member, a requisition in Form No.29 every month for the recovery from the salary or wages of such member of the amount payable by the member to the society for the month and for the remittance of such amount to the society. It shall be sent atleast seven clear days prior to the last working day of the month.*



- (3) *A member who has executed such an agreement shall, on every occasion he is subjected to a change in the employer or officer disbursing salary or wages whether by reason of change of office or place of employment or otherwise, within a week of his becoming subject to such change report the same to the society. The society shall within a fortnight of the receipt of such report, send intimation of the execution of the agreement to such employer or officer together with a copy of such agreement. The employer or the officer concerned shall, on receipt of such intimation from the society make a note of the agreement in the register maintained by him for the disbursement of salary or wages.*
- (4) *Any amount recovered by an employer or officer disbursing salary or wages from an employee by deducting from his salary or wages in pursuance of a requisition received from any society or societies, as the case may be, shall be remitted by such employer or officer, as the case may be, to the society or societies concerned as soon as possible and in any case within a period of fourteen days from the date on which the*



deduction is made.

- (5) *The cost of remittance to the society or societies of the deductions made under clause (a) of sub-section (2) of section 48 shall be borne by the society or societies concerned. The employer or the officer disbursing the salary or wages shall furnish to the society or societies, as the case may be, along with the remittance a statement of recoveries effected from the members and the cost of remittance of the money to the society or societies in Form No.30.*
- (6) *Where an amount deducted by the employer or the officer disbursing the salary or wages of the member of a society under clause (a) of sub-section (2) of section 48 is remitted by such employer or officer to a society, the society shall promptly issue to such employer or officer a receipt for the amount so remitted and the receipt given by the society for such amount shall constitute a good and sufficient discharge of the liability of such employer or officer in respect of any claims by such member against such employer or officer.*



- (7) *For the purpose of sub-section (8) of section 48, interest shall be calculated at three per cent above the maximum lending rate of the society to the members concerned on the entire sum deducted under sub-section (2) or sub-section (5) of section 48 but not remitted by the employer or the officer disbursing salary or wages, from the date on which such deduction was made.*
- (8) *The society shall make an application to the Registrar for recovery of sum under subsection (8) of section 48 specifying the amount to be recovered, the interest thereon and the costs involved with full details thereof and the name and address of the employer or the officer disbursing salary or wages from whom such recovery shall be made.*
- (9) *Any amount realized by a society from a member by deduction shall be credited by the society to the account of such member on the date on which the amount was deducted by the employer or the officer disbursing the salary or wages irrespective of the date on which the amount was actually received by such society. On the appropriation of the amount*



in the accounts of the society, the particulars of credit for the amount realized shall, forthwith, be furnished to the member by the society.

(10) The employer or the officer disbursing the salary or wages shall for the purpose of sub-section (3) of section 48 maintain a register showing the recovery and remittance of moneys due to societies in Form No.31.

(11) (a) Credit societies, consumer societies and housing societies shall be the classes of societies for the purpose of the proviso to clause (b) of sub-section (2) of section 48.

(b) Where any amount is due to any society belonging to any of the classes of societies specified in clause (a), the entire gross salary or wages for the month may be deducted and paid as laid down in clause (b) of the said sub-section (2) of section 48.



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Form No.29.

*[See sub-rule (2) of rule 69 of the Tamil Nadu
Co-operative Societies Rules, 1988.]*

*Form of requisition under sub-section (2) of section 48
of the Tamil Nadu Cooperative Societies Act, 1983. (Tamil
Nadu Act 30 of 1983) from a Society to an employer or
officer disbursing the salary or wages of a member of
such society for the deduction of amount due to it from
the salary or wages or the gratuity payable to such
member.*

To

.....

*(The employer or officer disbursing the salary or
wages or the gratuity.)*

Sir,

*With reference to the agreement executed by the following
members of our society authorising you to deduct from their salary /
wages / gratuity the amounts due from them to the society we
request you to be good enough to recover from their salary / wages
/ gratuity for the month of 20, the following
amounts due from them to the society. We request that the amount
recovered may be remitted to our society (mode of remittance)*

2. *Particulars of the amounts to be recovered from them are
given below:*

Serial number and name of members	Membership number in the society	Share capital payable
(1)	(2)	(3)
		Rs. P.



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Serial number and name of members	Membership number in the society	Share capital payable

Loans due		Penal interest	Deposits payable	
Principal	Interest		Amount	Penalty, if any
(4)	(5)	(6)	(7)	(8)
Rs. P.	Rs. P.	Rs. P.	Rs. P.	Rs. P.

Other items (Details)	Total	Remarks
(9)	(10)	(11)

*For.....Co-operative Society
Signature of the President / Secretary.*

Form No.30.

[See sub-rule (5) of rule 69 of the Tamil Nadu Co-operative Societies Rules, 1988.]

Form of remittance under sub-section (2) of section 48 of the Tamil Nadu Cooperative Societies Act, 1983 (Tamil Nadu Act 30 of 1983) of recoveries effected from the members on account of the dues to a Cooperative Society.

To

*The President / Secretary,
.....Cooperative Society.*



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Sir,

With reference to your requisition, dated the
for the recovery of amounts due to your society for the month of
20. . . , I remit herewith Rs. (Rupees in Words).

Details of the amount recovered are furnished below:-

Name of the member	Membership number in the society	Amount recovered	Date of recovery
(1)	(2)	(3)	(4)
		Rs. P.	

Total:

Less cost of remittance, if any,

Net amount remitted.

Please acknowledge receipt.

Yours faithfully,
Signature of Employer or Officer,
disbursing salary or wages.

Place:

Date:

Designation.....

Form No.31.

(See sub-rule (10) of rule 69 of the Tamil Nadu Co-operative Societies Rules, 1988.)

Form of register showing the recovery and remittance of moneys due to the Co-operative Societies maintained under sub-section (3) of section 48 of the Tamil Nadu Co-operative Societies Act, 1983 (Tamil Nadu, Act 30 of 1983).



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Name of the Co-operative society	Date of receipt of demand from the society	Name of the employee from whom dues have to be recovered	Demand Rs.
(1)	(2)	(3)	(4)

Receipts		Date of remittance	Amount remitted
(5)	(6)	(7)	(8)
	Rs. P.		Rs. P.

Payments

Challan number and date of remittance or signature of the authorised representative of the society	Number and date of the official printed receipt of the society	Remarks (here enter the reason for the difference if any between the amounts in Columns (4) & (6)	Initials of the officer disbursing the salary or wages
(9)	(10)	(11)	(12)

While so, each of the Respondents by separate communication to the respective Petitioners has informed that the practice of effecting recovery of the dues of the Petitioners from the salaries of the employees was to be immediately stopped on account of certain administrative difficulties faced by them, which is assailed in these Writ Petitions. The details of the Petitioners, Respondents and the impugned orders in the respective Writ Petitions are shown in the self-explanatory tabular



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statement below:-

Sl. No.	W.P. No.	Name of the Transport Corporation (Respondent)	Name of Co-operative Society (Petitioner)	Date of impugned order	Impugned Order No.
1.	W.P. No. 30784 of 2022	Metro Transport Corporation Pallavan Illam, Pallavan Salai, Chennai	The Transport Corporation Employees Co-operative Thrift and Credit Society Ltd.,	29.10.2022	Letter No. 44204/CPB/MTC/2022
2.	W.P. No. 30786 of 2022	State Express Transport Corporation Tamil Nadu Ltd., Pallavan Salai, Chennai	The Transport Corporation Employees Co-operative Thrift and Credit Society Ltd.,	03.11.2022	Letter No. 001471/WAB1/SETCTN/2022
3.	W.P. No. 30841 of 2022	Metro Transport Corporation (Chennai) Ltd.,	The J.J.99 Metropolitan Transport Corporation Employee's Co-operative Thrift and Credit Society Ltd.,	29.10.2022	Letter No. 44204/CPB/MTC/2022
4.	W.P. No. 30912 of 2022	State Express Transport Corporation Ltd., Pallavan Salai, Chennai	Employees Co-operative Credit Society Ltd.,	03.11.2022	Letter No. 001471/WAB1/SETCTN/2022
5.	W.P. No. 31104 of 2022	Tamil Nadu State Transport Corporation (Salem)	The Tamil Nadu State Transport Corporation (Salem Division-I) Employees Co-operative Thrift and Credit Society Ltd., S.S.59	05.10.2022	Ka.No. Pa.Pi/381/Tha A Poo Ka(Se)/2022
6.	W.P. No. 31274 of 2022	Tamil Nadu State Transport Corporation (Villupuram) Ltd.,	Tamil Nadu State Transport Corporation (Villupuram Division-III) Employee's Co-operative Thrift and Credit Society Ltd., No. GK 294	08.11.2022	Lr. No. 23/0023/CA1/TNS TC(VPM)/2022



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Sl. No.	W.P. No.	Name of the Transport Corporation (Respondent)	Name of Co-operative Society (Petitioner)	Date of impugned order	Impugned Order No.
7.	W.P. No. 31277 of 2022	Tamil Nadu State Transport Corporation (Villupuram) Ltd.,	VPM.3 Villupuram District Government Transport Corporation Employee's Co-operative Thrift and Credit Society Ltd.,	08.11.2022	Lr. No. 23/0023/CA1/TNS TC(VPM)/2022
8.	W.P. No. 31279 of 2022	Tamil Nadu State Transport Corporation (Villupuram) Ltd.,	Tamil Nadu State Transport Corporation Villupuram Employees Co-operative Thrift and Credit Society Ltd. XC-216	08.11.2022	Lr. No. 23/0023/CA1/TNS TC(VPM)/2022
9.	W.P. No. 31464 of 2022	Tamil Nadu State Transport Corporation (Villupuram) Ltd.,	The Transport Corporation Employers Co-operative Thrift and Credit Society Ltd.,	08.11.2022	Lr. No. 23/0023/CA1/TNS TC(VPM)/2022

4. At this juncture, it is pertinent to highlight that similar action taken by the Transport Corporations has been successfully challenged by the respective Employees' Credit Co-operative Societies before this Court on earlier occasions as per the particulars shown below:-

- (i) ***Thiruvalluvar Transport Corporation Employees Co-operative Credit Society Ltd. -vs- State Express Transport*** (Order dated 17.02.2009 in W.P. Nos. 30864 of 2008, 1547 and 2596 of 2009)



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- (ii) ***Tamil Nadu State Transport Corporation (MDU-DIV-I) Maduari Employees' Co-op, Thirft & Credit Society Ltd., -vs- Tamil Nadu State Transport Corporation (Madurai) Ltd.,*** (Order dated 02.03.2009 in W.P. (MD) Nos. 820 to 822 of 2009)
- (iii) ***Tamil Nadu State Transport Corporation (Madurai Division-I) -vs- Managing Director, TNSTC, Madurai*** (Order dated 05.08.2021 in W.P. (MD) No. 13531 of 2021)

5. In this context, it would be beneficial to extract the rationale explained by this Court for interfering with the impugned action in the decision in ***Thiruvalluvar Transport Corporation Employees Co-operative Credit Society Ltd. -vs- State Express Transport*** (Order dated 17.02.2009 in W.P. Nos. 30864 of 2008, 1547 and 2596 of 2009), after referring to the relevant provisions of the TNCS Act, which reads as follows:-

“11. A comparison of the provisions of both the enactments make clear, the following:-

- (a) *Section 60 (1) of the Central Act, begins with a non obstante clause. Similarly, Section 48 (7) of the State Act,*



also declares that the provisions of the Section shall apply notwithstanding any law to the contrary, for the time being in force.

(b) Section 60 (1) of the Central Act, as well as Section 48 (1) of the State Act, enables a member of the Multi State Co-operative Society or a Co-operative Society, as the case may be, to execute an agreement in favour of the Society, of which he is a member. Interestingly, there is no indication in these provisions, that such an agreement would be a tripartite agreement. Section 60 (1) of the Central Act, as well as Section 48(1) of the State Act, use the same phrase viz., "a member of Society may execute an agreement in favour of that Society". Therefore it is clear that these provisions do not contemplate such agreements to be tripartite in nature. They are only bipartite agreements between the member and the Society.



(c) *Sub Sections (2) of both these provisions viz., Section 60 of the Central Act and Section 48 of the State Act, are also similarly worded in the sense that the employer is made obligated to make deductions from the salaries, if two conditions are satisfied. The first condition to be satisfied is that an agreement as per sub section (1) should have been executed between the member and the Society. The second condition is that there must be a "requisition in writing from the Society". If both these conditions are satisfied, the employer becomes obligated. The provisions of both these enactments do not appear to confer any discretion upon the employer, as sub sections (2) of both these provisions use the same expression "the employer shall"*

(d) *Sub sections (2) of both these provisions do not even stipulate a requisition in writing from the employee concerned. They only envisage a requisition in writing from the Society concerned. Thus the obligation imposed*



under these provisions comes into effect, the moment an agreement is executed by a member with the Co-operative Society and the Society in turn, makes a request in writing to the employer.

(e) Section 48 (6) of the State Act, makes the employer or the Officer disbursing the salary, vulnerable for penal action, if they fail to comply with the provisions of the Section. The failure contemplated by this provision, is not a mere failure to remit the money deducted from the salary of the employee. It includes a failure even to effect recovery from the salary.

(f) Under Section 48 (8) of the State Act, the Registrar of Co-operative Societies, is conferred with the power of a Collector under the Tamil Nadu Revenue Recovery Act, 1864, for the purpose of recovering any amount deducted by the employer from the salary of the employee, but not remitted to the Society.



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12. *All the above salient features of Section 48 of the State Act and Section 60 of the Central Act, establish beyond any shadow of doubt that the obligation in question, is not contractual but statutory in character. First of all, the provisions of these Acts, do not contemplate a contract, to which the employer is required to be made a party. The agreement referred to in these provisions, is to be only between the member and the Society. Therefore there is no contract, to which the employer is a party, in so far as the deductions are concerned. At the most, the obligation to effect recovery from the salary of the employees, can be read into the contract of employment. But if so read, the same would become part and parcel of the terms and conditions of service of workmen, which cannot be altered without notice, in view of Section 9-A of the Industrial Disputes Act, 1947.*

13. *Moreover, a mere contractual obligation, cannot result in prosecution and penal consequences, in case of breach. The very fact that even the failure to effect recovery from the salary is made a*



punishable offence, is indicative of the fact that the obligation is statutory in character. The fact that the provisions of the Revenue Recovery Act, can be invoked against the employer, in case of failure to remit the amount already deducted, lends support to the view that the obligation is statutory.

14. *Moreover, the provisions of the Payment of Wages Act, also recognises this obligation on the part of the employer. Section 7 (2) of the Payment of Wages Act, reads as follows:-*

"(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only namely -
(j) deductions, for payments to co-operative societies approved by the State Government or any Officer specified by it in this behalf or to a scheme of insurance maintained by the Indian Post Office."



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15. *Therefore, the contention of Mr.Jayesh B. Dolia, learned counsel for the respondent-Corporations that the obligation of the respondents is only contractual in nature and that the contract is liable for termination, cannot be accepted. As a matter of fact, Justice S.S.Subramani, has taken a similar view in an unreported decision in UCO Bank Employees' Co-op. Thrift & Credit Society Ltd Vs. UCO Bank and Others {W.P.No.14510 of 1998 dated 7.12.1998} where it has been held as follows:-*

" Under the Multi State Co-operative Societies Act also, when such authorisation is given, the employer is legally bound to deduct from the wages and pay the same to the Society. This established practice cannot be withdrawn, at any rate without notice to the petitioner."

16. *Once it is found that the obligation to make deductions from the salaries of employees, for payment of the dues to Co-operative Societies, is statutory in character, it follows as a corollary that the employer has no right to wriggle out of the same at his choice, however justified the employer's grievance may be. Therefore the*



orders impugned in the writ petitions are violative of statutory provisions and are liable to be set aside.

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17. *As a matter of fact, the impugned orders may not really serve the purpose for which the respondents have issued the same, in view of certain other statutory provisions. For instance, Section 90 (1) of the Tamil Nadu Co-operative Societies Act, 1983, provides for the settlement of disputes between a member and the Society, through arbitration. Sub-section (6) of Section 90 enables the Registrar, while adjudicating a dispute, to pass such interlocutory orders, as he may deem fit in the interest of justice. Section 167 (2) of the Act, empowers the Registrar to order conditional attachment of a property. Therefore, even if the respondents make an attempt to avoid effecting recoveries as a matter of routine, they will be duty bound to comply with the orders passed under Section 90 (2) or 167 (2). Therefore, the respondents have no gate way, out of this obligation, except to set their house in order.*



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18. *In view of the above, all the writ petitions are allowed and the orders impugned therein are set aside. The respondents are directed to continue to effect recovery of dues to the Co-operative Societies, from the salaries of those employees, who have an agreement with the Co-operative Societies and in respect of whom a requisition in writing has been made by the respective Societies. No costs. Consequently connected miscellaneous petitions are closed.”*

Despite the aforesaid clear enunciation of the legal position, which has attained finality and has become binding, it is not perceivable as to how the Respondents could keep on discontinuing the recoveries from the salaries of their employees towards the dues payable by them to the respective Petitioners.

6. It would assume significance to point out here that Section 170 of the TNCS Act empowers the State Government, in public interest, by general or special order, whether prospectively or retrospectively, to exempt any registered Co-operative Society from the provisions (except Sections 88(1)(b) and 89(1)) of the TNCS Act and the Rules framed thereunder, but the Respondents have not produced any such order of exemption to justify their action under the impugned orders in any of these cases.



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7. In view of the foregoing discussion, it is not possible to countenance the impeached action of the Respondents, which is in blatant contravention of the mandatory provisions of Section 48 of the TNCS Act read with Rule 69 of the TNCS Rules, and as its consequence, the impugned orders are quashed and the Respondents are directed to comply with their obligations to the Petitioners in accordance with the aforesaid statutory provisions.

In the upshot, the Writ Petitions are ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

19.04.2023

skr/Maya

Index: Yes/No

Neutral Citation : Yes/No

Note: Issue order copy by 30.06.2023.

To

1. The Managing Director,
Metropolitan Transport Corporation (Chennai) Limited,
Pallavan Illam,
Pallavan Salai,
Chennai – 600 002.



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2. The Managing Director,
State Express Transport Corporation Tamil Nadu Limited,
Thiruvalluvar House,
No. 2, Pallavan Salai,
Chennai – 600 002.
3. The Managing Director,
Tamil Nadu State Transport Corporation (Salem),
No. 12, Ramakrishna Road,
Salem – 636 007.
4. The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Limited,
Villupuram,
Villupuram District – 605 602.



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P.D. AUDIKESAVALU, J.

skr/Maya

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19.04.2023