BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.4843 of 2023
and
W.M.P.(MD).Nos.4530 and 4531 of 2023

1.D.D.541 Adiyanuthu Primary
Agricultural Co-operative Credit Society,
Represented through its Secretary,
Adiyanoothu Post, Dindigul Taluk,
Dindigul District – 624 003.

2.A.1237 Kullalakundu Primary
Agricultural Co-operative Credit Society Limited,
Represented through its Secretary,
Kullalakundu Post, Nilakottai Taluk,
Dindigul District – 624 201.

3.D.D.388 Kuppammalpatti Primary
Agricultural Co-operative Credit Society Limited,
Represented through its Secretary,
Kuppammalpatti Post, Nilakottai Taluk,
Dindigul District – 624 212.

4.DD.544 Sirumalai Primary
Agricultural Co-operative Credit Society,
Represented through its Secretary,
Sirumalai Post, Dindigul Taluk,
Dindigul District – 624 003.

5.DD.517 Chettinaickenpatty Primary
Agricultural Co-operative Credit Society,
Represented through its Secretary,
Chettinaickenpatty Post, Dindigul Taluk,
Dindigul District – 624 004.

6.DD.537 Narasingapuram Primary
Agricultural Co-operative Credit Society,
Represented through its Secretary,
Narasingapuram Post, A.Vellode Village,
Dindigul District – 624 307. ... Petitioners

Vs.

1.The Income Tax Officer,
O/o. Income Tax, TDS Ward,
Madurai ME, Income Tax Staff Quarters Complex,
Kulamangalam Main Road,
Meenambalpuram,
Madurai – 625 002.

2.The Managing Director / Joint Registrar of
Dindigul Central Cooperative Bank
Kootturavu Nagar, Trichy Salai,
Dindigul – 624 005.

3.The Registrar of Cooperative Societies,
170, Periyar EVR High Road,
Kilpauk, Chennai – 10.

4.The Principal Secretary to Government
Cooperation, Food and Consumer
Protection Department,
Secretariat, Chennai – 9.

5.The Director,
Ministry of Finance,
Department of Revenue,
Room No.48C, North Block,
New Delhi – 110 001.

6.Thiru.Nitin Gupta,
Chairperson,
Central Board of Direct Taxes,
New Delhi. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the fifth and sixth respondents into the proceedings of the fourth respondent in D.O.Lr.No. 15350/CC1/2022 dated 27.09.2022 to accord exemption to the petitioners and direct the respondents not to take coercive steps including deduction of TDS till the appropriate orders are passed by the fifth and sixth respondents into the proceedings as above.

For Petitioners	:	Mr.V.O.S.Kalaiselvam
For R-1	:	Mr.N.Dilip Kumar, Senior Standing Counsel.
For R-2 to R-4	:	Mr.R.Suresh Kumar, Additional Government Pleader.

ORDER

This Writ Petition is filed for Mandamus directing the fifth and sixth respondents to consider the proceedings of the fourth respondent in D.O.Lr.No. 15350/CC1/2022 dated 27.09.2022 to accord exemption to the petitioners and direct the respondents not to take coercive steps including deduction of TDS till the appropriate orders are passed by the fifth and sixth respondents.

2. Admittedly, the petitioners are functioning for the welfare of the agriculturalist. The cooperative societies transactions would be in cash, since the some of the agriculturalist would not have bank accounts. As the

respondents introduced new provisions under Section 194N restricting the cash transactions to Rupees One Crore. If any transaction is over and above rupees one crore, then the respective cooperative society is liable for tax under TDS. This has caused difficulties to the societies to implement the schemes for the benefits of agriculturalist. Section 194N is challenged before the Hon'ble Division Bench in batch of cases and the said cases are still pending.

3. In the meanwhile, the Chief Secretary of the Tamil Nadu Government has sent a communication dated 27.09.2022 seeking exemption to all the cooperative societies from the purview of Section 194N. According to the petitioners, there are similar orders passed regarding the claim of the petitioners and they relied on W.P.(MD).No.4499 of 2023 batch vide order dated 03.03.2023 and W.P.(MD).No.6233 of 2020 vide order dated 18.07.2023. It is seen that the Learned Single Judge has taken note of the letter issued by the Chief Secretary and has issued a direction not to take coercive steps until the exemption letter is considered by the Central Board of Direct Taxes.

4. The learned Senior Standing Counsel appearing for the respondents submitted that the letter was considered by the authorities and they have issued an Office Memorandum dated 22.02.2023 and the same is extracted hereunder:

F. No. 370153/9/2023-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)
*****

147B-II, North Block, New Delhi
Dated the 27th February, 2023

OFFICE MEMORANDUM

Subject:- **Writ Petition filed by the Cooperative Societies before the Hon'ble Madras High Court challenging section 194N of the Act – Request for the status of letter dated 27.09.2022 from the Govt of Tamil Nadu - reg.**

Kindly refer to your email dated 20.02.2023 forwarding therein email dated 18.02.2023 from the Sr. Standing Counsel appearing for the Department in the Madurai Bench of the Hon'ble Madras High Court, asking for status of letter dated 27.09.2022 from the Govt. of Tamil Nadu.

2. In this regard, I have been directed to convey that various representations were received with respect to applicability of section 194N to co-operative socities. The matter was examined. It is submitted that section 194N was inserted in the Income Tax Act 1961 (the Act) vide Finance Act 2019 to further discourage cash transactions and encourage movement towards less cash economy. However to provide relief to co-operative societies, it has been proposed in Finance Bill, 2023 to amend section 194N of the Act by providing a higher threshold of withdrawal of rupees three crores for the applicability of TDS u/s 194N of the Act in their case instead of rupees one crores. The above proposal, on its enactment, shall come into force from 1st April, 2023.

3. This issues with the approval of Member (L&S), CBDT.

(Om Prakash Meena)
Under Secretary (TPL)-III

To,

The Commissioner of Income Tax (TDS)
Coimbatore

5. In the said Circular F.No.370153/9/2023-TPL dated 22.02.2023, the Under Secretary of Ministry of Finance, Department of Revenue Central Board of Direct Taxes has referred to the letter dated 27.09.2022, which the petitioner is relying on and categorical stated that exemption under Section 194N cannot be granted. However, threshold limit of one crore would be increased to three crore and the increased threshold limit would come into effect from 01.04.2023. Therefore, the respondents have clearly stated that the earlier provisions will be applicable from the date of amendment until 31.03.2023 and the limit is one crore. From 01.04.2023, the petitioners are entitled to threshold limit of three crores. If over and above one crore/three crore, transactions are made in cash, then the petitioners are liable to pay TDS. Therefore, the contention of the petitioners that the exemption was not considered cannot be entertained, since the exemption was considered and the same was declined by increasing the threshold limit. Therefore, the petitioners have not made out any case and hence mandamus cannot be issued.

6. With the above observations, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

1.The Income Tax Officer,
O/o. Income Tax, TDS Ward,
Madurai ME, Income Tax Staff Quarters Complex,
Kulamangalam Main Road,
Meenambalpuram,
Madurai – 625 002.

2.The Managing Director / Joint Registrar of
Dindigul Central Cooperative Bank
Kootturavu Nagar, Trichy Salai,
Dindigul – 624 005.

3.The Registrar of Cooperative Societies,
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6.Thiru.Nitin Gupta,
Chairperson,
Central Board of Direct Taxes,
New Delhi.

S.SRIMATHY, J.

Nsr

W.P.(MD).No.4843 of 2023

23.08.2023