BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.13238 of 2023
and
W.M.P.(MD)No.11187 of 2023

Sp.Spl.41, Sammanthapuram Primary
Agricultural Cooperative Society Limited,
represented by its Secretary,
29A, Kavadi Subbaiya Pillai Street,
M.P.Karisalkulam,
Melapattamkarisalkulam-626 110,
Virudhunagar District. ... Petitioner

vs.

1.The Assessment Unit,
Income Tax Department,
National Faceless Assessment Centre,
Delhi.

2.The Income Tax Officer,
Ward No.3,
130, Railway Feeder Road,
Virudhunagar-626 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned assessment order vide DIN No. ITBA/AST/S/143(3)/2022-23/1048015502(1), dated 15.12.2022, issued by the 1st respondent and to quash the same.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.N.Dilipkumar

*****

ORDER

This writ petition is filed for writ of Certiorari, to quash the impugned assessment order, dated 15.12.2022, issued by the 1st respondent.

2. The 1st respondent had initiated e-proceeding under Faceless Assessment Scheme and issued notice, dated 27.07.2022 under section 142(1) of the Income Tax Act. The petitioner has submitted explanation on 10.08.2022 along with annexure of documents. The contention of the petitioner is that the information sought for by the 1st respondent was very bald, vague such as i. Members of the Cooperative Society ii. The activities undertaken by the petitioner society, iii. He modus operandi being followed in earning the Income Tax declared in the return of income iv. The lending persons / parties v. the details of loan / interest paid thereon for each lender. Even then the petitioner uploaded volumes of documents along with the explanation and the e-response was received on 11.08.2022. The petitioner had submitted the relevant records including audit report, profit and loss accounts and balance sheet. The respondents were not satisfied with the attached details. Hence, further notice, dated 16.11.2022, was issued, calling upon the petitioner

to submit further details to the queries listed under:

> *"1. Name and complete address with PAN of the members to whom you are providing credit facilities and accepting loans.*
>
> *2. Details of Receipts/deposits and Disbursement statement as on 31.03.2021*
>
> *3. Details of Interest earned and accrued as on 31.03.2021.*
>
> *4. Details of Interest paid and due as on 31.03.2021.*
>
> *5. Details of expenses shown with documentary evidence.*
>
> *6. Details of lending and Investment for the welfare of the members as stated in your reply dated 11.08.2022."*

Subsequently, the respondents issued a show cause notice again with draft assessment order, dated 29.11.2022. The petitioner has not responded to the same. Since the petitioner has not responded, the respondents have passed the assessment order based on the available records. Challenging the assessment order, the present writ petition is filed. Even though the petitioner is having a statutory appeal, the petitioner is before this Court, since according to the petitioner effective opportunity was not granted to the petitioner.

3.The contention of the petitioner was vehemently opposed by the respondents by stating that in spite of two opportunities by way of notice and show cause notice for the proposed variation, dated 16.11.2022 and 29.11.2022, the petitioner cannot state that opportunity was not granted. For which the petitioner submitted that the Society is having more than 3000 members and it has voluminous records and the records could not be attached. Since it is a faceless assessment and if a personal hearing had been granted to the petitioner, the petitioner would have furnished the entire material manually. But the respondents submitted that such a request was not submitted to the respondents and moreover such request cannot be allowed since it is faceless assessment.

4. After hearing the rival arguments this Court has given its anxious consideration. It is seen that the petitioner is the Primary

Agricultural Credit Society (PACS) and the society is formed for lending loans to the members who are farmers and the income is only from interest through lending business. The petitioner has submitted the details of its transaction in the annexures submitted along with the reply. On receipt of the reply the respondent has directed the petitioner to the submit the name and address along with PAN numbers of the members. The contention of the petitioner is that there are 3000 members and it is voluminous documents and hence the petitioner was is seeking personal hearing to produce the register manually. The respondent submitted since it is faceless assessment the request of the petitioner cannot be entertained. The petitioner further submitted since the society is lending money to farmers, the farmers may not have PAN numbers. The petitioner society may provide the PAN numbers where ever it is available and indicate where ever it is not available. This Court is of the considered opinion that the petitioner ought to be granted one more opportunity to produce the register and to produce the other particulars sought for by the respondent.

5. Therefore, impugned order is set aside. The petitioner is directed to reply to the notice, dated 16.11.2022, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respondents shall fix the date of personal hearing as per law. The respondents shall provide sufficient and effective opportunities to the petitioner and the petitioner shall avail the same without citing any reasons.

6.With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
NCC : Yes / No
Tmg

03.07.2023
(2/2)

S.SRIMATHY, J

Tmg

W.P.(MD)No.13238 of 2023

03.07.2023
(2/2)