IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.11222 to 11226 of 2015

Himalaya Multi State Co-operative Housing Society Limited,
Represented by its Chairman Mr.B.Dhanasekaran,
R.Nos.2&3, TNHB Complex,
Sasthri Nagar, 1st Avenue,
Adayar,
Chennai - 600 020. ... Petitioner in W.P.No.11222 of 2015

Evershine Multi Purpose Co-operative Society Limited,
No.13, Angamuthu Street, Royapettah,
Chennai - 600 014.
Represented by its Chairman,
Mrs.Ayesha Begum ... Petitioner in W.P.No.11223 of 2015

Metro Multi State Co-operative Housing Society Limited,
Represented by its Chairman Mr.A.Jawahar,
259/1, J.J.S.Complex,
Om Shakthi Nagar,
200 feet Byepass Road,
Vanagaram,
Chennai - 600 095. ... Petitioner in W.P.No.11224 of 2015

Prompt Multi State Co-operative House
Building Society Limited,
No.5, Koya Arunagiri,
1st Street, Royapettah,
Chennai - 600 014.
Represented by its Chairman
Mr.R.Asan Mydeen ... Petitioner in W.P.No.11225 of 2015

Bharath Multi State Co-operative Housing Society Limited,
No.9, 3rd Street, Nehru Nagar,
Adayar,
Chennai - 600 020.
Represented by its Chairman
Mr.V.Jayapalan ... Petitioner in W.P.No.11226 of 2015

-Vs-

1. The Government of Tamil Nadu,
   Represented by its Secretary to Government,
   Commercial Taxes and Registration Department,
   Fort St.George, Chennai.

2. The Inspector General of Registration,
   Chepauk,
   Chennai - 600 005. ... Respondents in all W.Ps

COMMON PRAYER : Petitions under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records passed by the first respondent in Letter No.16495/J1/2012-5, Commercial Taxes and Registration Department, dated 21.10.2013 and the consequential order of the second respondent in O.Mu.3667/C2/2012 dated 28.10.2013 and quash the said orders and direct the respondents to continue the remission of stamp duty in respect of Multi-State Co-operative Societies registered in Tamil Nadu including the petitioner Co-operative Society.

For Petitioners in all W.Ps	:	No appearance
For Respondents in all W.Ps	:	Mr.B.Vijay Additional Government Pleader

COMMON ORDER

(Order of the Court was made by **R.SURESH KUMAR, J.)**

Since the issue raised in all these writ petitions is one and the same, all these writ petitions are disposed of by this common order.

2. These writ petitioners are Multi-State Co-operative Societies registered under the Central Act, i.e., Multi State Co-operative Societies Act, 2002.

3. Insofar as the societies, which are registered either under the Tamil Nadu Co-operative Societies Act, 1961, i.e., erstwhile Act or the present Act, namely, the one and only, the Tamil Nadu Co-operative Societies Act, 1983, are getting exemption of stamp duty from the Government.

4. In this regard, the exemption that has been granted to the society

registered under the State Act is sought to be extended to the Multi-State Co-operative Societies registered under 2002 Act, like the present petitioners, therefore, they challenged the Government Letter No.16495/J1/2012-5 dated 21.10.2013, under which, the following decision has been communicated by the Government:

> *"He has therefore stated that the Stamp Duty exemption granted to cooperative societies by the Government in G.O.(Ms)No.2179 (Cooperation), dated 29.06.1966 in exercise of the power conferred by subsection (1) of the section 43 of the erstwhile Tamil Nadu Cooperative Societies Act, 1961 (which corresponds to section 51 of the existing Tamil Nadu Cooperative Societies 1983) is not applicable to Cooperative Societies registered under the multi state cooperative societies Act 2002."*

5. The said communication as well as the consequential communication issued by the respondents squarely are under challenge invariably in all these writ petitions.

6. These writ petitions have been pending from 2015, when it came up

for hearing on 08.08.2024, at request, we have posted the matter today for hearing. Today when the cases are taken up, Mr.B.Vijay, learned Additional Government Pleader appearing for the respondents has stated that, the decision taken by the Government in not extending the stamp duty exemption provided to the societies registered under the State Act to the Multi-State Co-operative Societies registered under 2002 Act has already been questioned and it has been held in favour of the Government by a Division Bench of this Court dated 12.08.2022 made in W.A.No.246 of 2022 in the matter of ***M/s.Om Sakthi Kalikambal Multi-State Cooperative Housing Society Limited, Represented by its President Mr.G.R.Ravichandran Vs. The Inspector General of Registration and another.***

7. Therefore, the learned Additional Government Pleader has relied upon the said decision and would submit that, the issue raised in these writ petitions since has been squarely covered by the said decision, these writ petitions have to face the same fate that has been made in the said W.A.No.246 of 2022.

8. We have considered the said submissions made by the learned

Additional Government Pleader appearing for the respondents and have perused the materials placed before this Court.

9. Exactly, the same issue has been raised in the said writ appeal, where ultimately the Division Bench, by order dated 12.08.2022, has held as follows:

" .....

12. The Act of 2002 provides exemptions, but such exemption would be applicable to the instruments referred therein only and not in general. When a specific provision exists under the Act of 2002, than beyond that can a Multi~State Corporation Society claim benefit under the State Act by which it is not governed and provisions of exemption is different. The learned counsel for the writ appellant tried to persuade the Court that exemption under Section 59 of the Act of 2002 would be even in reference to a sale deed. We are unable to persuade ourselves with the aforesaid argument. The exemption has been given on the payment of stamp duty on the transfer of shares and debentures and not on the sale deed. An exemption of the stamp duty on the transfer of share cannot mean exemption for transfer of properties on the execution of sale deed.

13. In view of the above, we do not find that the *exemption of payment of stamp duty on the sale deed would be governed by Section 59 of the Act of 2002. Once the Central Act provides and defines an area of exemption in the payment of stamp duty, how the additional benefits can be taken, and if it is given, would not offend Section 59 of the Act of 2002.*

14. For all the reasons given above, we do not find that the appellant is entitled to the benefit of exemption given under the State Act, not being registered under the said Act but the Central Act of 2002. Finding no error in the judgment of the learned Single Judge and finding no merit in the writ appeal, the same is dismissed. There will be no order as to costs."

10. In view of the said decision of the Division Bench, the challenge that has been made in these writ petitions would not sustain, therefore, these Writ Petitions have to fail, accordingly, they are liable to be dismissed and hence, dismissed. However, there shall be no order as to costs.

(R.S.K., J.) (C.S.N., J.)
14.08.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
vji

To

1. The Secretary to Government,
   The Government of Tamil Nadu,
   Commercial Taxes and Registration Department,
   Fort St.George,
   Chennai.

2. The Inspector General of Registration,
   Chepauk,
   Chennai - 600 005.

R.SURESH KUMAR, J.
and
C.SARAVANAN, J.

vji

W.P.Nos.11222 to 11226 of 2015

14.08.2024