IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.11376, 11380 and 11385 of 2022
and
W.M.P.Nos.10913, 10914 and 10919 of 2022

K.1006 Singanallur Urban Co-operative
Credit Society Ltd.,
Represented by its Secretary, T.Kannan,
157, S.R.T.Lay Out, Singanallur,
Coimbatore - 641 005. ... Petitioner in all W.Ps

Vs.

1. The Principal Commissioner of Income Tax,
8th Floor, Income Tax Annex,
Building No.63, Race Course Road,
Coimbatore - 641 018.

2. The Income Tax Officer,
Non-Corp Ward 1(4), CBE,
Race Course Road,
Coimbatore - 641 018.

3. The Income Tax Officer,
National Faceless Assessment Center,
New Delhi. ... Respondents in all W.Ps

COMMON PRAYER : Petitions filed under Article 226 of the Constitution of India praying for issuance of writ of certiorari, to call for the records relating to impugned Assessment Order in DIN&Order No.ITBA/AST/S/147/2021-22/1042037174(1) dated 30.03.2022 for the assessment year 2013-14, Assessment Order in DIN&Order No.ITBA/AST/S/147/2021-22/1042036311(1) dated 30.03.2022 for the assessment year 2014-15 and Assessment Order in DIN&Order No.ITBA/AST/S/147/2021-22/1042071844(1) dated 30.03.2022 for the assessment year 2015-16, passed by the second respondent and quash the same.

For Petitioner in all W.Ps	:	Mr.T.Ramesh
For Respondents in all W.Ps	:	Dr.B.Ramaswamy Senior Standing Counsel

COMMON ORDER

Since the issue raised in all these writ petitions are one and the same, with the consent of the learned counsel appearing for both sides, all these writ petitions are heard together and disposed of by this common order.

2. The petitioner has challenged the impugned orders all dated 30.03.2022 passed by the second respondent for the assessment years 2013-14, 2014-15 and 2015-16.

3. These orders have been passed under Section 147 r/w. 148 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') pursuant to a notice issued under Section 148 of the Act on 17.03.2022.

4. The specific case of the petitioner is that originally the petitioner was registered as a partnership firm and had obtained Permanent Account No.ABTFS5604C. It is submitted that all along, the petitioner was a Co-operative Society and was providing services to its members. It is the specific case of the petitioner that as a Co-operative Society, it is entitled to the benefit of Section 80-P of the Act. Admittedly, the petitioner has not filed return for the respective assessment years in question, as a result of which, the petitioner was issued with a notice under Section 148 of the Act on 17.03.2022.

5. The learned counsel for the petitioner submitted that the said PAN has been inactive since 2018 and all the subsequent assessment returns have been made only under new PAN. The learned counsel for the petitioner further submits that since the portal disabled the old PAN No., the petitioner was unable to file return of income pursuant to the aforesaid notice dated 17.03.2022 issued under Section 148 of the Act. Under these circumstances, it is the case of the petitioner that the petitioner manually filed the return of income pursuant to the aforesaid notice dated 17.03.2022 issued under Section 148 of the Act which has been ignored by the Department and therefore, the assessment has been completed under Section 144 of the Act. The learned counsel further submits that for the assessment year 2012-13, a notice has been issued under Section 148 of the Act under New PAN.No.AAVAS9415R even though during the aforesaid period, the petitioner had not obtained the New PAN No.AAVAS9415R. That apart, the learned counsel for the petitioner drew the attention of the order passed for the assessment year 2016-17, wherein notice was issued under Section 148 of the Act with old PAN No.ABTFS5604C. However, the proceedings was

dropped by referring to new PAN No.AAVAS9415R after the case was selected for scrutiny under CASS and the assessment was completed under Section 143(3) on 20.12.2018 by determining the assessment income at Rs.84,48,228/-. It is submitted that under these circumstances, assessment for the year 2016 was not pursued further and the assessment was completed as returned income 'Nil'. It is therefore submitted that the petitioner may be given one opportunity to explain the case based on the manual return filed by the petitioner on 17.03.2022.

6. On the other hand, the learned Senior Standing Counsel for the respondents submitted that there was a huge receipt of money by the petitioner with old PAN number and that it is not open for the petitioner to keep two pans without surrendering the same. Hence, the question of petitioner having the assessment completed under the new PAN for the business transaction with the old PAN cannot be countenanced. It is further submitted that the petitioner ought to have surrendered the old PAN after obtaining new PAN and therefore, on this count, the impugned orders do not

merit any interference. It is further submitted that since the petitioner has failed to file the regular returns or returns with the old PAN for which notice dated 17.03.2022 was issued, the assessment had to be purportedly completed under Section 144 of the Act. Hence, it is submitted that these writ petitions have to be dismissed with liberty if any to pursue alternate remedy by way of an appeal before the Appellate Commissioner under Section 246-A of the Act. Adding further, the learned Senior Standing Counsel for the respondent would submit that the petitioner assessee was allotted with PAN No.ABTFS5604C on 30.07.2010 and this PAN number was linked to the bank account of the petitioner. It is submitted that however no return was filed for the assessment years 2013-14 to 2016-17. The petitioner has also not brought to the notice of the Income Department that it had been allotted that PAN No.ABTFS5604C with wrong status as FIRM, but it continued to operate the bank accounts linked to the aforesaid PAN No.ABTFS5604C. It is submitted that it is only under these circumstances, the proceedings were initiated under Section 148 for the purpose of completing assessment under Section 147 of the Act. It is further submitted by the learned Senior Standing Counsel for the respondents that for the assessment year 2016-17, PAN.No.ABTFS5604C was not pursued further because the assessment was already completed for the assessment year 2016-17 under Section 147 under PAN No.AAVAS9415R. It is therefore submitted that these writ petitions are liable to be dismissed.

7. I have considered the submissions advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

8. In my view, although the petitioner firm has not surrendered the old pan number after obtaining new pan number, the assessment has to be completed once the notice was issued under Section 148 of the Act. The petitioner also ought to have surrendered the old pan number, but that could not mean that the petitioner has to be assessed both under the new pan number and old pan number. The new pan number has given a identity to the petitioner and therefore, the petitioner has also filed return of income on

17.03.2022. The petitioner having filed the same and explained the position by order dated 21.01.2022 which was duly acknowledged and a further request on 16.03.2022 was made which was not acceded which resulted in impugned orders. Since the petitioner has filed return subsequently on the date mentioned above, it is imperative that the assessment be completed as has been done for the assessment year 2016-17 vide order dated 30.03.2022. That apart, the facts also indicate that notice for the assessment year 2013 under Section 148 was issued to the petitioner on 26.03.2022 even though during the aforesaid period, the petitioner did not possess the new PAN No. AAVAS9415R.

9. Under these circumstances, these Writ Petitions are allowed and the impugned orders passed by the second respondent are set aside and the matters are remitted back to the second respondent. The second respondent is directed to pass fresh order with a new pan number with the aforesaid income filed on 17.03.2022 as expeditiously as possible preferably within a period of eight months from the date of receipt of a copy of this order. The

Income Tax Department is directed to take steps to cancel the old pan number which is subsisting as on date in the name of the petitioner. No costs. Consequently, connected miscellaneous petitions are dismissed.

20.11.2024

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

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C.SARAVANAN, J.

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