IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition Nos.30306, 30308, 30309 & 30329 of 2022 and W.M.P.Nos.29750, 29751, 29752, 29754, 29755, 29757, 29770, 29771, 32728, 32729, 32731, 32732, 32817, 32819, 32872 & 32874 of 2022

In all WPs.

M/s.The Thiruvanmiyur Milk Consumer's
Co-operative Society Limited,
Represented by its Secretary,
Mr.C.Sakthivel, No.6/19,
Kottiwalkam Kuppam Road,
Thiruvanmiyur, Chennai-600 041. ... Petitioner

-vs-

The Assessing Officer,
Income Tax Department,
Corporate Ward 3(1) CHE,
Room No.415, 4th floor,
Chennai Wanaparathy Block,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034. ... Respondent

Prayer in W.P.No.30306 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the order of the respondent DIN and Order

No.ITBA/PNL/S/992/2022-2023/1045889526(1) dated 26.09.2022 and quash the same.

Prayer in W.P.No.30308 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the order of the respondent DIN and Order No.ITBA/PNL/S/992/2022-2023/1045889841(1) dated 26.09.2022 and quash the same.

Prayer in W.P.No.30309 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the order of the respondent DIN and Order No.ITBA/PNL/S/992/2022-2023/1045889645(1) dated 26.09.2022 and quash the same.

Prayer in W.P.No.30329 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the order of the respondent DIN and Order No.ITBA/PNL/S/992/2022-2023/1045961922(1) dated 26.09.2022 and quash the same.

In all WPs.

For Petitioner : Mr.M.K.Bhoopathy Rajan

For Respondent : Mr.R.S.Balaji, Senior Standing Counsel
Mrs.S.Premalatha, Junior Standing Counsel

COMMON ORDER

In all these four writ petitions, the respective assessment order and the consequential penalty orders are challenged on the ground of breach of principles of natural justice.

2. The petitioner asserts that it is a Co-operative Society; that PAN AACCT9874A was issued erroneously and that, therefore, the petitioner was classified as a company in the records of the Income Tax Department. By further asserting that the petitioner was unable to file its returns from assessment year 2013-2014 to assessment year 2018-2019 and avail exemption because of the above error, the respective assessment orders are assailed.

3. Learned counsel for the petitioner submits that rectified PAN AAGAT8456Q was obtained by surrendering the old PAN and that, therefore, the petitioner is now in a position to file returns for assessment years 2013-2014 to 2017-2018 electronically.

4. Mr.R.S.Balaji, learned senior standing counsel for the respondent,

also confirms that the petitioner has obtained the new PAN and should be directed to file returns electronically using the new PAN.

5. On perusing the impugned assessment orders, it is evident that such orders were issued because of non compliance by the petitioner in filing the returns of income pertaining to the Co-operative Society. From the averments in the affidavit and the submissions of learned counsel, it is evident that such returns could not be filed in view of the issuance of a PAN for a limited company to the petitioner instead of issuing the PAN for a Co-operative Society. Subsequently, this anomaly was rectified by issuing PAN AAGAT8456Q to the petitioner. As a corollary, the petitioner is now in a position to file returns electronically for assessment years 2013-2014 to 2017-2018. In order to provide an opportunity to the petitioner to file such returns, the impugned orders are liable to be interfered with.

6. For reasons set out above, the assessment orders and consequential penalty orders impugned in these writ petitions are quashed and the matter is remanded for reconsideration by the assessing officer. The petitioner is

directed to file returns of income pertaining to assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017 and 2017-2018 within a maximum period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including personal hearing, and issue fresh assessment orders within a period of three months from the date of receipt of returns of income from the petitioner.

7. The writ petitions are allowed on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.02.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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<u>SENTHILKUMAR RAMAMOORTHY,J</u>

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To

The Assessing Officer,
Income Tax Department,
Corporate Ward 3(1) CHE,
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