BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.71 to 80 of 2022
and
WMP(MD)Nos.50 to 60 of 2022

WP(MD)No.71 of 2022

R 67 Valliyoor,
Primary Agricultural Co-Operative Credit Society,
Valliyoor,
Amathur (Post),
Virudhunagar Taluk,
626 005,
Virudhunagar District. ... Petitioner

Vs

1.The Income Tax Officer,
Office of the Income Tax,
TDS Ward,
Madurai ME,
Income Tax Staff Quarters complex,
Mulamangalam Main Road,
Madurai - 625 002.

2.The Managing Director /
The Joint Registrar of Co-Operative Bank,
104/1, Madurai Road,
Virudhunagar -626 001. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a writ of certiorari calling for the entire records relating to the impugned order passed by the 1st respondent in No.MRIT01113A/ITO/TDS/MDU/2019-20, dated 10.03.2020 and consequential circular of the 2nd respondent in No.022047/2020-2021/BS dated 15.04.2021, quash the same.

For petitioners	:	Mr.Kalaiselvam. V.O.S
For Respondent No.1	:	Mr.N.Dilip Kumar, Standing Counsel
For Respondent No.2	:	Mr.D.Shanmuga Raja Sethupathi in all Writ Petitions

ORDER

The petitioners are the Agricultural Co-Operative Credit Societies Limited. They have filed these writ petitions challenging the assessment made as against the District / Central Co-Operative Banks and the circular issued by the District Central Co-Operative Banks with reference to the provisions under Section 194N of the Income Tax Act.

2.The learned Counsel for the petitioner submits that the petitioners are Primary Agricultural Co-Operative Societies and they are having accounts with the District Central Co-Operative Banks. As per the Section 80-P of the Income Tax Act, all Agricultural Co-Operative Societies are exempted from paying income tax. While so an amendment has been made to Income Tax Act under Section 194N for deduction of income tax at 2% for exceeding sum of Rs.one crore. Citing this amendment the 1st respondent has issued impugned demand notices directing Central Co-Operative Banks to pay the demand within a stipulated time and based on the same, the 2nd respondent has also issued impugned circulars.

3.The learned Counsel further submits that the petitioners are not Banks and they are only Agricultural Co-Operative Societies. Therefore, the proviso under Section 194N the Agricultural Co-Operative Societies are exempted as per the notification issued by the Central Board of Direct Taxes. Further, the petitioners are only permitted to use the services of third party as agents to provide banking and financial service such as credit and savings on their behalf as mandated by the State Government and therefore, they are entitled for exemption under the proviso to Section 194N of the Income Tax Act. Therefore, the impugned demand notices and the circulars are liable to be dismissed.

4.The learned Counsel for the 1st respondent submits that the issue has already been decided. The validity of Section 194N has already been upheld by the Division Bench of this Court and the writ petition challenging the circulars issued by the Central Co-Operative Bank has also been dismissed. Therefore, the petitioners cannot maintain these writ petitions. It is only a circular of the Central Co-Operative Banks to the societies, about the statutory provisions in regard to the deduction of tax at source. Similar view was taken by the Division Bench of this Court, in writ appeals also.

5.The learned Counsel for the 2nd respondent submits that the issue has already been decided and the validity of

Section 194N was upheld and the request of the Central Co-operative Banks through the government for exemption from Section 194N was considered by Central Board of Direct Taxes and the limitation was enhanced from Rs.One Crore to Rs.3 Crore with effect from 01.04.2023.

6.This Court considered the rival submissions and perused the materials placed on record.

7.The petitioners have filed these writ petitions challenging the demand notices issued against the central co-operative banks. Similar demand notices issued under Section 194N were challenged before this Court and the issue has already been decided and the validity of Section 194N of the Income Tax Act was upheld. These demand notices were issued against the Central Co-Operative Bank as per the proviso to Section 194N of the Income Tax Act. Since the District Central Co-Operative Banks against whom, the demand notices were issued, have not questioned the same, the petitioners are not having any *locus* to maintain these writ petitions, challenging the said demand notices.

8.The issue with regard to the circulars for assessment has already been decided by this Court in WP.Nos.17136, 1797 of 2022, etc., batch and a similar view was taken by the Division Bench of this Court in WA(MD)Nos.33 to 114 of 2020, etc., batch.

9.Since the issue has already been settled in the writ appeals upholding the validity of Section 194N of Income Tax Act, these writ petitions are dismissed. No costs. Consequently connected miscellaneous petitions are also dismissed.

28.02.2024

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B.PUGALENDHI, J.

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