BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.12.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.29700 of 2024
and
W.M.P.(MD) Nos.25056 and 25057 of 2024

The Thanjavur Market Committee,
rep by its Secretary,
M.Sarasu ... Petitioner

/vs./

1.The Assessing Officer,
National Faceless Assessment Center,
New Delhi.

2.The Principal Commission of Income Tax -1,
2, V P Rathinasamy Nadar Road,
Bibikulam,
Madurai 625 002.

3.The Assistant Commissioner of Income Tax,
Circle 2(1),
No.100, Nanjikottai Road,
Thanjavur P & T Colony,
Thanjavur 613 006. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned Assessment Order passed by the Respondent in DIN and Order No. ITBA/AST/S/143(3)/2023-24/1062949687(1)), dated 19.03.2024 and the consequential impugned Demand Notice issued by the Respondent in DIN and Notice No.ITBA/AST/S/156/2023-24/1062950216(1), dated 19.03.2024, and quash the same as illegal and arbitrary and to pass suitable Order of Assessment, accepting the return of income field by the Petitioner.

For Petitioner : Mr.Veera Kathiravan AAG Assisted by
Mr.P.Saravanakumar

For Respondents : Mr.N.Dilip Kumar
Standing Counsel

ORDER

The Writ petition has been filed challenging the order of assessment of the third respondent herein.

2. Mr.M.Veerakathiravan, learned Additional Advocate General assisted by Mr.P.Saravanakumar, learned counsel for the petitioner, would submit that the petitioner is an established market to regulate the purchase and sale of paddy and

ground nut. The same has also been notified in the Official Gazette in G.O.Ms.No.319, dated 04.02.1964. The petitioner is exempted under Section 10(26AAB) of the Income Tax Act, 1961. The income of a agricultural Produce Marketing Committee framed under any law cannot be considered to be the income taxable. However, in view of the fact that there was certain delay on the part of the petitioner to produce the documents that the order of assessment had been passed treating the income as taxable income and therefore, he would submit that the order of assessment would have to be interfered with by this Court.

3. Countering his arguments, Mr.N.Dilip Kumar, learned counsel appearing on behalf of the respondents would submit that the petitioner has also filed an appeal before the appellate authority and therefore would submit that the petitioner can always prosecute the appeal that had been filed before the appellate authority.

4. In reply, the learned Additional Advocate General would submit that the appeal has now been withdrawn by the petitioner.

5. I have considered the rival submissions made by the learned counsel on either side.

6. Considering the fact that the petitioner is a notified Marketing Committee under the law, they are entitled to treat their income as non taxable income in view of Section 10(26AAB) of the Income Tax Act, 1961. The petitioner has also undertaken to produce all the relevant records to the Assessment Unit for reconsideration within the time to be fixed by this Court.

7. In view of the same, the impugned assessment order is set aside and the matter is remitted back to the Assessment Unit for passing a fresh order of assessment. The petitioner shall produce all the relevant documents within a period of four weeks from the date of receipt of a copy of this order and thereafter, the Assessment Unit after affording an opportunity to the petitioner shall pass orders with a further four weeks period. If the petitioner fails to submit the relevant documents within the aforesaid time period, the order of assessment impugned herein shall stand revived.

8. The Writ Petition stands allowed, subject to the above directions. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

19.12.2024

Index : Yes / No
Internet : Yes / No
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<u>K.KUMARESH BABU, J.</u>

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