IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.15345 of 2025**
**and**
**W.M.P.Nos.17344 of 2025**

TPSPL 37 ARASAMPALAYAM
Primary Agricultural Cooperative Credit Society
rep. by its Secretary, V.Manonmani.
...Petitioner

Vs.

The Assessing Officer,
Income Tax, Non Corp Ward (1)
Pollachi. ...Respondent

**Prayer**

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the respondents contained in the notice issued under Section 147 of the Income Tax Act, 1961, bearing DIN & Order No.ITBA/AST/S/147/2023-24/1060884215(1) dated 13.02.2024 for AY 2019-20 for PAN No. AAGFT2638D and to quash the same as arbitrary, unjust and illegal and to direct the respondents to update new PAN AAAIT5701A instead of old PAN AAGFT2638D in the petitioner's status, with retrospective effect and to issue a fresh notice under Section 148 to the petitioner Society for the AY 2019-20 under new updated PAN AAAIT5701A with liberty to file fresh returns under new PAN AAAIT5701A by the petitioner and to reassess the same.

For Petitioner : M/s.M.V.Saranya

For Respondent : Dr.B.Ramaswamy,
Senior Standing Counsel

**Order**

The petitioner has filed these Writ Petitions seeking for the following reliefs:-

i) To quash the notice issued under Section 147 of the Income Tax Act, 1961 dated 13.02.2024 for AY 2019-20 for PAN No. AAGFT2638D.

ii) To direct the respondents to update new PAN AAAIT5701A instead of old PAN AAGFT2638D in the petitioner's status, with retrospective effect and to issue a fresh notice under Section 148 to the petitioner Society for the AY 2019-20 under new updated PAN AAAIT5701A with liberty to file fresh returns under new PAN AAAIT5701A by the petitioner and to reassess the same.

**2.** The learned counsel appearing for the petitioner would submit that initially, the petitioner inadvertently applied for PAN in the status of a

Private Company, instead of obtaining the same in the status of an AOP, hence, the petitioner applied for a new PAN with AOP status and the new PAN with AOP was also allotted to the petitioner; that since the petitioner has mistakenly obtained PAN in the capacity of a Firm, the petitioner could not file return of income in Form ITR 5, so as to claim deduction under Section 80, however, since for AY 2019-20, no return of income was filed by the petitioner, the respondent issued a notice under Section 148 of the Act; that thereafter, the petitioner approached the respondent and informed that the old PAN was surrendered and requested to update the new PAN and to issue notice under Section 148 under the new PAN; that the petitioner has not obtained any reply from the respondent, however, the petitioner filed return of income for the AYs 2019-20 manually under the new PAN with AOP status, but, the respondent, without taking into consideration of the same, passed orders under Section 147 read with Section 144 of the Act by stating that the petitioner failed to file reply to any of notices issued by them.

**2.1** It is the contention of the learned counsel for the petitioner that the petitioner was totally unaware of the entire proceedings, inasmuch as, all the notices, which culminated in the impugned order were served on the petitioner's old mail-id under old PAN status. However, it is fairly submitted by the learned counsel for the petitioner that the petitioner now undertook to file reply and participate in the proceedings and therefore, prays this Court to refer the matter for re-consideration before the respondent.

**3.** The learned Senior Standing Counsel for the respondent would submit that since the petitioner undertook to file reply and participate in the proceedings and requests for remanding the matter back to the respondent for fresh consideration, and this Court is inclined to accede to such request, orders passed in that regard would be complied with by the respondent.

**4.** Heard the learned counsel appearing for the petitioner and the learned Senior Standing Counsel for the respondent and perused the materials placed on record.

**5**. The petitioner, viz., Primary Agricultural Cooperative Credit Society is a Society formed with an objective of providing credit facilities to its members so as to improve their economic conditions. As such, the petitioner was required to apply PAN in the status of an AOP, but, inadvertently, the petitioner applied for PAN in the status of a Firm and the same was also alloted to the petitioner in such capacity. The petitioner is a Cooperative Society, and hence, they are entitled to claim deduction under Section 80 P of the I.T.Act, however, since the petitioner has mistakenly obtained PAN in the status of Firm, later, the petitioner applied for new PAN with AOP and the same was alloted to the petitioner. For the AY 2019-20, the petitioner has not filed return of income, hence, the petitioner was issued with a notice under Section 148 of the Act to verify the cash deposit of Rs.40,30,818/- in the bank, which, according to the respondent was duly served on the e-mail id of the petitioner and since no response was forthcoming to any of the notices sent by the respondent-Department, the respondent passed the impugned order under Section 147 of the I.T.Act .

**6.** Per contra, it is the grievance of the petitioner that after obtaining new PAN with AOP status, the petitioner approached the respondent and informed about the surrendering of old PAN and for updation of new PAN and requested the respondent to issue notice under Section 148 under new PAN, however, the respondent has not bothered to consider such request, but was sending notices on the petitioner's old PAN and mail-id, which was not noticed by the petitioner. However, the petitioner, in order to show their bona fide, filed their return of income under the new PAN manually, but the same was not taken into consideration by the respondent, rather, the respondent passed the impugned order stating that the petitioner failed to file reply.

**6.1** This Court would like to point out that once the respondent-Income Tax Department realizes the fact that no reply was forthcoming to any of the notices issued by them, instead of sending repeated notices to the petitioner/assessee by similar mode of service, could opt for alternative mode of service, preferably, RPAD. Thus, this Court do not have any hesitation to hold that the impugned order passed by the respondent is an ex parte order, and suffers from violation of principle of natural justice. Hence, this Court is inclined to pass the following orders/directions:-

i) The impugned order dated 13.02.2024 is set aside.

ii) The matter is remanded to the respondent for fresh consideration.

iii) The petitioner is directed to file reply through the Portal within a period of three weeks, for which sake, the respondent is directed to keep open the Portal for a period of three weeks, from the date on which, a request in that regard is received from the petitioner's side.

iv) Thereafter, the respondent is directed to consider the reply and after affording an opportunity of personal hearing to the petitioner, shall take decision in accordance with law.

**7.** In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected miscellaneous petition is closed.

**26.06.2025**

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Index : yes/no
Neutral Citation : yes/no

To
The Assessing Officer,
Income Tax, Non Corp Ward (1)
Pollachi.

**Krishnan Ramasamy,J.,**

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**W.P.No.15345 of 2025**

**26.06.2025**