IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2025

CORAM

The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.14003 of 2022
and
WMP.Nos.13252 and 13253 of 2022

E-2138, Sornavoor Melpathy Primary Agricultural
Cooperative Credit Society Ltd.,
Rep. by its Secretary,
P.Rajarajan, M/57,
S/o. Periyasamy,
Sornavoor Melpathy & Post,
Villupuram Taluk,
Villupuram District.

... Petitioner

Vs.

1. The Income Tax Officer,
   Ward (2), Villupuram.

2. The Joint Registrar/Managing Director,
   Villupuram District Central Cooperative Bank Ltd.,
   Trichy Main Road, Villupuram-605 602.

...Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the entire records relating to the impugned order passed by the 2nd respondent in his proceedings Na.Ka.No.2858/2012/Va.3 dated 24.12.2021 and quash the same.

For Petitioner	:	Mr.C.Prakasam
For R1	:	Dr.B.Ramaswamy, Senior Standing Counsel assist by Mr.K.Umesh Rao, Junior Standing Counsel
For R2	:	Mr.K.Ravi

ORDER

The challenge in this writ petition is to the notice dated 24.12.2021 issued by the 2nd respondent and to quash the same.

2. The learned counsel for the petitioner would submit that the aforesaid impugned notice/circular was issued under Section 194(A) of the Income Tax Act (hereinafter called as "IT Act") to the petitioner Co-operative Society stating that if any amount is withdrawn morethan one crore subsequently as per amendment three crores from the savings bank account of the concerned Society, TDS @ 2% will be deducted. In the event, if he Cooperative Society failed to file return for the cash withdrawal,

which exceeds a sum of Rs.20,00,000/- upto Rs.1 Crore 2% TDS will be deducted and if the withdrawal exceeds a sum of Rs.1 Crore, 5% of the TDS will be deducted. He would further submit that subsequent to the issuance of the said circular, the 2nd Respondent deducted 2% and 5 % respectively. Being aggrieved, the petitioner is before this Court by way of this writ petition.

3. Further, he would submit that the petitioner is a Co-operative Society and the Petitioner used to withdraw the cash with an intention to distribute the same to the farmers to meet out their minimum requirements i.e., to buy fertilizers, seeds and other equipments for the purpose of cultivation, and also for providing the reliefs such as Pongal enam, flood relief, etc. and therefore only in order to benefit its members the petitioner used to withdraw the case, for which the 2nd respondent should not deduct the TDS. He therefore prays to set aside the same.

4. The learned counsel appearing for the 2nd respondent would submit that in the case on hand merely provisions of Section 194(N) of the Act was

circulated in the form of Notice to the Petitioner Society and the said notice is only challenged in this writ petition and the provisions to Section 194(N) of the Act are not challenged. Further, he would submit that though the 2nd respondent is a Co-operative Bank and and will not come under the purview of the Reserve Bank of India, the 2nd respondent is bound to law and therefore the 2nd respondent/bank is required to deduct 2% TDS when they are paying by virtue of cash to any Co-Operative Societies and in the event if the Co-operative Society fails to file returns, 2% TDS will be deducted for the cash withdrawal, which exceeds a sum of Rs.20,00,000/- upto Rs.1 Crore and 5% will be deducted for the cash withdrawal, which exceeds a sum of Rs.1 Crore, as per Section 194(N) of the Act. Further, he would submit that the provisions of Section 194(N) was challenged before the Madurai Bench of this Court and the same was dismissed. He therefore prays for appropriate orders.

5. Dr.B.Ramaswamy, learned Senior Standing Counsel appearing for the 1st respondent would submit that what is under challenge is the notice in the form of information issued by the 2nd respondent about the cash

withdrawal and applicability of Section 194(N) of the Act. Further, he would submit that this Court in similar situation had rejected the request of the Co-operative Societies and dismissed the Writ Petitions filed by the Co-operative Societies. He therefore prays for the dismissal of this Writ Petition also.

6. Heard both sides. Perused the records.

7. The challenge in this writ petition is to the notice issued in the form of information to the Petitioner Co-operative Society, wherein it has been stated that in the event, if the cash withdrawal exceeds the limit prescribed under the Act, they are bound to deduct TDS. At this juncture, it would be apposite to extract Section 194N of the IT Act, which reads as follows:

""“*194N- Every person, being-*

(i) a banking company to which the Banking Regulation Act, 1949 (10 of 1949)

applies (including any bank or banking institution referred to in section 51 of that Act);

(ii) a co-operative society engaged in carrying on the business of banking, or

(iii) a post office, who is responsible for paying any sum, being the amount or the aggregate of amounts, as the case may be, in cash exceeding one crore rupees during the previous year, to any person (herein referred to as the recipient) from one or more accounts (SB/CA/CC/OD and All other Accounts) maintained by the recipient with it shall, at the time of payment of such sum, deduct an amount equal to two per cent of such sum, as income tax;"

8. From the aforesaid provision, it clear that the Co-operative Societies engaged in carrying on business of banking and is responsible for paying any sum, being the amount or the aggregate of amounts, as the case may be, in cash exceeding one crore during the previous year, to any person from one or more accounts maintained by the recipient with it shall, at the time of payment of such sum, deduct an amount equal to two per cent of such sum, as income tax. In the present case, the amount to be paid by the 2nd respondent/Cooperative bank is liable to deduction of tax, if the said amount is exceeding Rs.1 Crore. Therefore, they are duty bound to deduct

theTDS as stated above.

9. As long as provisions are not challenged, the 2nd respondent is liable for deduction of tax. It is also brought to the notice of this Court by the learned counsel appearing for the respondents that the provision of Section 194(N) was challenged before the Madurai Bench of this Court and the same was dismissed.

10. This Court in similar circumstances in a batch of writ petitions in W.P.Nos.3919 of 2022 etc., passed an order dated 18.12.2023 rejecting the request of the Co-operative Societies. The relevant portion of the order is extracted hereunder:

> *"29. Further, the objects and reasons for the introduction of Section 194N of IT Act are as follows:*
> *(i) To go for a cashless economy;*
> *(ii) To discourage the dealings and payments of cash;*
> *(iii) To control the circulation of illegal money in the economy*
> *(iv) To track the financial transaction easily at any point of time;*
>
> *(v) To carry on the official transactions easily at*

any point of time from any place;

30.Further, in the cashless economy, the money will be safe, since once the money deposited or invested in the bank account, there is almost nil chance of being lost, stolen or damaged unless paper money.

31. It is also pertinent to note that due to the permission granted to the Co-operative Societies to deal with the cash and to distribute the same to the members under the different reliefs, there is a large number of malpractices and mishandling of the cash. Even when this Court posted a question to the learned counsel for the petitioner, since he had appeared on behalf of many delinquent officers of the Co-operative Societies, who are all said to be involved in different types of malpractices, he had fairly accepted that in the cooperative societies, there are very bright chances for happening of very many types of malpractices and mishandling of money. Further, he would submit that in many number of cases, he had appeared before this Court for the delinquent officials to get reliefs from this Court. This Court had also came across many cases, where the officers of the cooperative societies viz., Secretary or other Officials, in collusion with other officers, had opened hundreds of fictitious accounts and granted loans to those fictitious accounts. Thereafter, if there is any loan waiver or interest waiver granted by the Government, the same benefits will goes to the persons, who are all involved in the creation of those fictitious accounts. Hence, this is where the Societies are functioning in an unregulated manner. It is also due to the reason that the qualified Auditors had not been mandated to audit the accounts of the Societies and only the departmental audits have been conducted, which would pave the way for all sort

> *of malpractices in those cooperative societies. Under these circumstances, Section 194N of the IT Act would be one of the ways to curb the malpractices in distribution of cash and encourage the cashless economy.*

11. In the light of the aforesaid decision and also considering the overall facts and circumstances of the case and also the submissions made by the learned counsel appearing on either side, this Court is inclined to dismiss this writ petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

10.06.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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To

1. The Income Tax Officer,
   Ward (2), Villupuram.

2. The Joint Registrar/Managing Director,
   Villupuram District Central Cooperative Bank Ltd.,
   Trichy Main Road, Villupuram-605 602.

KRISHNAN RAMASAMY, J.

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W.P.No.14003 of 2022

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