IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20444 & 21797 of 2023
and
W.M.P.Nos.19836, 19837, 21131 & 21132 of 2023

K.713 Venkittapuram Primary Agricultural
Cooperative Credit Society,
Rep By Its Secretary, A.Devaki,
No.1/278, Voc Street,
Chinniyampalayam Post,
Coimbatore- 641 062.

... Petitioner in W.P.No.20444 of 2023

No.4300 Kalangal Primary
Agricultural Co- Operative Credit Society,
Rep By Its Secretary, P.Sivakami,
No.2/212a, South Street, Appanaickenpatti
Pudur Road, Kalangal Post, Sulur Taluk,
Coimbatore- 641 402.

... Petitioner in W.P.No.21797 of 2023

Vs.

The Assessment Unit
Income Tax Department, Minister Of Finance,
Government Of India, New Delhi.

... Respondents in both petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari,

Calling for the entire records relating to the impugned order passed by the respondent in its proceedings DIN No. ITBA /AST / S/ 147 / 2022 - 23 / 1050954335 (1), dated 19.03.2023and quash the same

Calling for the entire records relating to the impugned order passed by the respondent in DIN No. ITBA / AST/ S/ 147/ 2022- 23/ 1050821615 (1), dated 15.03.2023 and quash the same

For Petitioner
in both petitions : Mr.C.Prakasam

For Respondent
in both petitions : Dr.B.Ramaswamy, Sr.St.counsel

COMMON ORDER

These writ petitions have been filed against the impugned assessment order dated 15.03.2023 & 19.03.2023 passed by the respondent.

2. The learned counsel for the petitioner would submit that in these cases, the show cause notices were issued by the respondent on 12.01.2023 & 28.02.2023, however, the petitioner had failed to file their reply for the said notices. According to the petitioner, due to oversight, their auditor had failed to inform about the receipt of aforesaid notice and hence no reply was filed. Under these circumstances, the impugned orders came to be passed by the respondent on 19.03.2023 & 15.03.2023, whereby it has been stated that no relevant documents were filed by the petitioners. Therefore, now, the petitioners request this Court for one more opportunity to present their case before the respondent.

3. On the other hand, the learned Senior Standing counsel appearing for the respondent would submit that in these cases, after the receipt of show case notices, no replies were filed by the petitioners and hence, the respondent had proceeded to pass the assessment orders dated 15.03.2023 & 19.03.2023. Further, he would contend that the reason assigned by the petitioner for non-filing of reply is not acceptable. Hence, he requests this Court to dismiss the present petition.

4. Heard the learned counsel for the petitioner and the learned Senior Standing counsel appearing for the respondent and also perused the entire materials on record.

5. In the cases on hand, the show cause notices were issued by the respondent on 12.01.2023 & 28.02.2023. After the receipt of said show cause notices, no replies were filed by the petitioner. According to the petitioner, due to the oversight, their Auditor had failed to inform with regard to the receipt of said notices and hence, they were unable to file their reply. Under these circumstances, the impugned orders dated 19.03.2023 & 15.03.2023 came to be passed by the respondent, whereby it has been stated that no relevant documents were filed by the petitioner.

6. A perusal of the said assessment orders makes it clear that the respondent had quantified the petitioner's tax liability without any reply or relevant documents. On the other hand, according to the petitioners, being Cooperative Societies, they are exempted from payment of tax liabilities.

7. In view of the above, it is clear that the issues raised by the petitioners are factual aspects, which has to be substantiated before the concerned Authority by producing all the relevant documents and the same cannot be adjudicated by this Court. When such being the case, this Court is of the view that it would be just and necessary to provide an opportunity to the petitioner to present their case before the respondent. Therefore, this Court is inclined to set aside the impugned orders dated 15.03.2023 & 19.03.2023 on terms. Accordingly, this Court passes the following order:-

(i) The impugned orders dated 15.03.2023 & 19.03.2023 are set aside and the matters are remanded to the respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees Five Thousand Only), in each case, to The Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of two weeks from the date of receipt of a copy of this order. The setting aside of the impugned orders will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their additional reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of a copy of this order.

(iii) Thereafter, the respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and subsequently, pass a detailed speaking order on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

8. With the above directions, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

25.06.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

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To

The Assessment Unit
Income Tax Department, Minister Of Finance,
Government Of India, New Delhi.

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.20444 & 21797 of 2023
and W.M.P.Nos.19836, 19837, 21131 & 21132 of 2023

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