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

W.P.Nos.21489 & 21493 of 2024

The Chennai Government & Government Undertakings
Employees Co.op Society Ltd.,
Rep. by Secretary, A.S.Kamakshi.
...Petitioner in both W.Ps.

Vs.

1. The Commissioner
   Income Tax, Non Corp Ward 9(1)
   Chennai.

2. The Assessing Officer,
   Income Tax, Non Corp Ward 8(1)
   Chennai. ...Respondents in both W.Ps

Prayer in W.P.No.21489 of 2024

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus i) directing the respondents to update new PAN AAKAT5194P instead of old PAN AAGCT1230L in the petitioner status with retrospective effect; ii) directing the respondents Department to issue a fresh notice under Section 148 to the petitioner Society for the AY 2017-18 under new updated PAN AAKAT5194P with liberty to file fresh returns under new PAN AAKAT5194P by the petitioner and iii directing the respondents Department to re-assess the returns filed by the petitioner with liberty to dispose with merits by remanding the case back to the Assessing Officer, second respondent.

Prayer in W.P.No.21493 of 2024

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus i) directing the respondents to update new PAN AAKAT5194P instead of old PAN AAGCT1230L in the petitioner status with retrospective effect; ii) directing the respondents Department to issue a fresh notice under Section 148 to the petitioner Society for the AY 2016-17 under new updated PAN AAKAT5194P with liberty to file fresh returns under new PAN AAKAT5194P by the petitioner and iii directing the respondents Department to re-assess the returns filed by the petitioner with liberty to dispose with merits by remanding the case back to the Assessing Officer, second respondent.

For Petitioner in both W.Ps. : M/s.M.V.Saranya
For Respondent in both W.Ps : Mr.B.Ramanakumar
Senior Standing Counsel

Common Order

These two Writ Petition have been filed by the petitioner seeking for the following prayers:-

i) Mandamus on the respondents to update new PAN AAKAT5194P instead of old PAN AAGCT1230L in the petitioner's status with retrospective effect;

ii) Mandamus on the respondent-Department to issue a fresh notice under Section 148 to the petitioner Society for the AYs 2016-17 and 2017-18 under new updated PAN AAKAT5194P with liberty to file fresh returns under new PAN : AAKAT5194P by the petitioner

and

iii) Mandamus on the respondent-Department to re-assess the returns filed by the petitioner with liberty to dispose with merits by remanding the case back to the Assessing Officer, second respondent.

2. The learned counsel appearing for the petitioner would submit that the petitioner was initially allotted with a PAN in the status of a Private Limited Company, hence, the petitioner could not file return of income in response to the notice issued under Section 148 of the Act, inasmuch as, the petitioner-Society, being an AOP is supposed to file return of income in Form ITR 5 and claim deduction under Section 80 P, but since the petitioner has wrongly obtained PAN in the capacity of a Company, the petitioner was able to file return of income only in Form ITR 6; that therefore, the petitioner applied for allotment of new PAN in the status of an AOP, pursuant to which, the petitioner has been allotted a new PAN No. and when the petitioner approached the second respondent/Assessing Officer for surrendering the Old and updating the new PAN No and requested to issue 148 notice under the new PAN, the same was not accepted by the second respondent for the reason that re-assessment proceedings were going on with the old PAN, which necessitated the petitioner to approach this Court by way of present Writ Petition seeking for the aforesaid relief.

3. Mr.B.Ramanakumar, learned Senior Standing Counsel for the respondents would submit that, if a representation is made by the petitioner in regard to the updation of new PAN No, the same would be considered and appropriate steps would be taken for initiation of reassessment proceedings under new PAN.

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

5. The petitioner, viz., Employees Cooperative Society is a Thrift

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 Private Limited Company and the petitioner was also PAN in such capacity. However, the petitioner's case was reopened by issuing notice under Section 148 of the Act on 25.03.2021 to verify the cash deposit aggregating to Rs.1,96,50,000/- in the bank and notice under Section 142 (1) was issued on various dates by the respondent Assessing Officer, in response to which, the petitioner also filed reply. Since the petitioner-Society, being an AOP, is eligible to claim deduction under Section 80 P (2) (a) (i) of the Act from its total income, for which sake, the petitioner is required to file return of income in Form ITR 5, as the petitioner obtained old PAN in the capacity of a Private Limited Company, the petitioner was able to file return of income only in Form ITR 6 and not in Form ITR 5. However, recognizing this inadvertent error, the petitioner has applied for provision of a new PAN in the capacity of an AOP and accordingly, the petitioner is allotted with new PAN. Therefore, the petitioner has approached the second respondent/Assessing Officer for surrendering the old PAN and to update the New PAN and requested him to issue notice under section 148 under new PAN. Thus, when the petitioner has committed an error while obtaining the PAN, (as they being a Society, instead of obtaining PAN in the capacity of AOP mistakenly obtained PAN in the capacity of a Company) however, when the petitioner, having set right the error by applying for new PAN and new PAN was also allotted in the capacity of an AOP, and approached the second respondent/Assessing Officer for updation of new PAN by surrendering new PAN and requested to issue notice under Section 148 of the Act under new PAN, the second respondent ought to have considered such request, since, once the old PAN was surrendered, no proceedings could be initiated under old PAN and in the event, the respondent intends to initiate reopening proceedings, the same could be done only under new PAN.

6. However, taking into consideration of the submission made by the learned Senior Standing Counsel for the respondents that if a representation is made by the petitioner with regard to the updation of new PAN, the same would be considered and appropriate orders would be passed by the respondents and the learned counsel for the petitioner is also agreable for the same, this Court is inclined to pass the following orders:-

i) The petitioner is directed to make a representation in regard to the updation of new PAN within a period of two weeks from the date of receipt of a copy of this order.

ii) The second respondent-Assessing Officer, on receipt of such representation, is directed to consider the same and pass appropriate orders for updatation new PAN AAKAT5194P instead of old PAN AAGCT1230L in the petitioner's status with retrospective effect within a period of eight weeks, and thereafter, issue a fresh notice under Section 148 to the petitioner Society for the AYs 2016-17 and 2017-18 under newly updated PAN AAKAT5194P with liberty to file fresh returns under new PAN, and thereafter, shall proceed with re-assessment proceedings based on the returns filed by the petitioner.

7. The Writ Petitions are disposed of on the aforesaid terms. No costs.

26.06.2025

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Index : yes/no
Neutral Citation : yes/no

To

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   Chennai.

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Krishnan Ramasamy,J.,

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