BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.8922 of 2025
and
W.M.P.(MD)Nos.6688 and 6689 of 2025

A.2957 Koovanuthu Primary Agricultural
Cooperative Credit Society Ltd.,
Rep,Through its Secretary, Kamaraj Nagar,
Anaipatti Road, Nilakottai,
Dindigul - 624208. ... Petitioner

-vs-

1.The Deputy Commissioner of Income Tax,
O/o. the Deputy Commissioner of Income Tax,
Room No.1, Ground Floor, Income Tax Office,
No.2, V.P.Rathinasamy Nadar Road,
CR Building, Bibikulam,
Madurai – 625002.

2.The Managing Director/ Joint Registrar,
Dindigul Central Cooperative Bank,
Kootturavu Nagar, Trichy Salai,
Dindigul - 624 005. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records relating to the impugned orders passed by the first respondent made in DIN and Order

No.ITBA/COM/F/17/2023-24/1063571019 (1) dated 28.03.2024 and the consequential order of the second respondent made in Na.Ka.No.431/02-03/D1 dated 02.04.2024 and quash the same.

For Petitioner	:	Mr.Silambanan Senior Counsel for M/s.Kaavya Silambanan Associates
For R1	:	Mr.N.Dilip Kumar Senior Standing Counsel
For R2	:	Mr.D.Shanmugaraja Sethupathi

ORDER

This Writ Petition has been filed seeking to quash the order passed by the first respondent made in DIN and Order No.ITBA/COM/F/17/2023-24/1063571019 (1) dated 28.03.2024 and the consequential order of the second respondent made in Na.Ka.No.431/02-03/D1 dated 02.04.2024.

2. The learned Senior Counsel appearing for the petitioner submits that the petitioner is a cooperative credit society constituted by its members as shareholders, dedicated to serving their interests. The Government of India and the Government of Tamil Nadu implement their policies through such societies.

The Governments sanction funds through District Central Co-operative Banks to primary cooperative societies and members benefit from loans, subsidies, waivers and annual gifts like, Pongal gifts distributed through ration shops under the control of these societies.

3. The learned Senior Counsel for the petitioner further contends that the amendment to the Income Tax Act effected from 01.09.2009 exempts cooperative societies engaged in banking activities from the purview of Section 194N of the Income Tax Act, 1961. It has been consistently held by this Court that gifts like, Pongal gifts and banking transactions are not subject to Section 194N of the Income Tax Act, 1961. The learned Senior Counsel submits that the first respondent violated the principles of natural justice by not issuing notices to the petitioner or the second respondent and by failing to conduct proper inspections before passing the impugned orders. Furthermore, the Hon'ble Supreme Court in Civil Appeal No.8917 of 2022 affirmed that cooperative credit societies are entitled to exemptions under Section 80P(2) of the Income Tax Act, 1961. The learned Senior Counsel appearing for the petitioner emphasizes that deducting 2% TDS on loans would severely impact the society's financial sustainability, jeopardizing its purpose of serving marginalized agrarian members.

4. The learned Senior Standing Counsel appearing for the first respondent submits that the deduction of TDS under Section 194N of the Income Tax Act, 1961 is in accordance with law and applicable to the petitioner society. The petitioner's claim for exemption under Section 80P(2) of the Income Tax Act, 1961 is not valid, as the society's activities fall within the scope of tax deduction provisions. The learned Senior Standing Counsel also submits that the respondents have followed proper procedure while passing the impugned orders and therefore, there is no need to interfere with the impugned orders. The learned Senior Standing Counsel also submits that the Government has the authority to enforce TDS provisions and to withhold exemptions based on policy directives and that the petitioner's activities do not warrant any special exemptions.

5. In support of his submissions, the learned Senior Standing Counsel appearing for the first respondent relied on the judgment passed by a Hon'ble Division Bench of this Court in **Income Tax Officer, TDS** vs. **Thanjavur District Central Co-operative Bank Ltd**. reported in **(2024) 158 taxmann.com 490 (Madras)**, wherein the challenge to the constitutional validity of Section

194N of the Income Tax Act, 1961, was rejected.

6. Heard the learned counsel appearing for the parties.

7. After considering the above said submissions, this Court finds that Section 194N of the Income Tax Act, 1961 applies to the petitioner's transactions, including loans and subsidies, irrespective of the cooperative society's nature. This Court is of the view that the legal provisions and amendments are clear and no exemption applies in this case as claimed by the learned Senior Counsel for the petitioner. The respondents have followed the procedures properly and passed the impugned orders in accordance with law.

8. Furthermore, this Court distinguishes the precedents cited by the learned Senior Counsel for the petitioner, noting that the factual circumstances of those cases differ from the present case. Therefore, this Court upholds the actions of the respondents, including the deduction of TDS as lawful and procedurally correct.

9. In view of the above, the challenge to the impugned orders lacks merit. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
smn2

02.04.2025

To:-

1.The Deputy Commissioner of Income Tax,
O/o. the Deputy Commissioner of Income Tax,
Room No.1, Ground Floor, Income Tax Office,
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CR Building, Bibikulam,
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2.The Managing Director/ Joint Registrar,
Dindigul Central Cooperative Bank,
Kootturavu Nagar, Trichy Salai,
Dindigul - 624 005.

VIVEK KUMAR SINGH, J.

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W.P.(MD)No.8922 of 2025

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