

आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI V. DURGA RAO, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

1. आयकर अपील सं./ ITA No.1045/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Dharmapuri (Head Office) 81/10H, Nethaji Bye Pass Road, Dharmapuri-636 701.	बनाम / Vs.	DCIT TDS Circle, Coimbatore.
स्थायी लेखा सं./जी आइ आर सं./PAN/TAN No. AAAAT-3148-D /CHED-04359-F		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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2. आयकर अपील सं./ ITA No.1046/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited, Dharmapuri (Dharmapuri Town Branch) Thirupathur Road, 24/33A, Pajana Kovil Street, Dharmapuri-636 701.	बनाम/ Vs.	ITO TDS Ward. Hosur.
स्थायी लेखा सं./जी आइ आर सं./PAN/TAN No. AAAAT-3148-D /CHED-06452-F		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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3. आयकर अपील सं./ ITA No.1047/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Krishnagiri Main Branch Bangalore Main Road, Krishnagiri Main-635 001.	बनाम / Vs.	ITO TDS Ward. Hosur.
स्थायी लेखा सं./जी आइ आर सं./PAN/TAN No. AAAAT-3148-D /CHET-10495-C		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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4. आयकर अपील सं./ ITA No.1048/Chny/2023

(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Krishnagiri Town Branch, 64/34, Co-operative Colony, Krishnagiri-635 001.	बनम/ Vs.	ITO TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHET-10496-D		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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**5.आयकरअपील सं./ ITA No.1049/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)**

M/s. Dharmapuri District Central Co-operative Bank Limited (Hosur Branch) 2/11/29, Near Bus Stand, Bye Pass Road, Hosur, Krishnagiri Dist -635 109.	बनम/ Vs.	ITO TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-10501-B		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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**6.आयकरअपील सं./ ITA No.1050/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)**

M/s. Dharmapuri District Central Co-operative Bank Limited , Theerthamalai Branch 1/283, Veppampatti Main Road, Theerthamalai, Harur Tk. Dharmapuri Dist.-636 906	बनम/ / Vs.	ITO TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06564-F		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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**7.आयकरअपील सं./ ITA No.1051/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)**

M/s. Dharmapuri District Central Co-operative Bank Limited, Palacode Sugar Mills Branch 4/247, Dharmapuri Dist.Co-operative Sugar Mills, Matric School Campus, Palacode, Dharmapuri Dist.-636 808.	बनम/ / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-07973-A		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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8.आयकरअपील सं./ ITA No.1052/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Nallampalli Branch 362, Salem Main Road, Nallampalli, Dharmapuri Dist.-636 807.	बनाम / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./ PAN/TAN No. AAAAT-3148-D /CHED-06438-F	:	(प्रत्यर्थी / Respondent)
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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9.आयकरअपील सं./ ITA No.1053/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Subramaniya Siva Sugar Mill Branch, 2/285, Subramaniya Siva Sugar Mill Campus, Alapuram, Pappireddipatti tk. Dharmapuri Dist.-636 904.	बनाम / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./ PAN/TAN No. AAAAT-3148-D /CHED-06459-F	:	(प्रत्यर्थी / Respondent)
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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10.आयकरअपील सं./ ITA No.1054/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited, Kadathur Branch, 260V, 40, Bommidi Road, Kadathur, Pappireddipatti tk. Dharmapuri Dist.-635 303.	बनाम/ Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./ PAN/TAN No. AAAAT-3148-D /CHED-06458-E	:	(प्रत्यर्थी / Respondent)
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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11.आयकरअपील सं./ ITA No.1055/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Harur Branch, 540, Katcheri Medu, Uthangarai Main Road, Harur, Dharmapuri Dist.-636 903.	बनाम / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./ PAN/TAN No. AAAAT-3148-D /CHED-06441-B	:	(प्रत्यर्थी / Respondent)
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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12. आयकरअपील सं./ ITA No.1056/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Papparapatti Branch, 202/2, Panchayat Office, Addl. Building Pennagaram Main Road, Papparapatti, Pennagaram Taluk, Dharmapuri Dist.-636 905.	<u>बनाम</u> / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHET-10505-F		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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13. आयकरअपील सं./ ITA No.1057/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Berigai Branch, 2/8A, Bagalur Main Road, Berigai, Krishnagiri Dist.-635 105.	<u>बनाम</u> / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06583-D		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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14. आयकरअपील सं./ ITA No.1058/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Bargur Branch, 138, Krishnagiri Main Road, Bargur. Pin:635 104.	<u>बनाम</u> / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06488-G		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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15. आयकरअपील सं./ ITA No.1059/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited, Palacode Town Branch, 7/385, Near Saravana Theatre, Palacode, Dharmapuri Dist – 636 808.	<u>बनाम</u> / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06460-G		

(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)
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16. आयकर अपील सं./ ITA No.1060/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited Kaveripattinam Branch, Govt.Hr.Sec.School opposite Salem Main Road, Kaveripattinam. Krishnagiri Dist – 635 112.	<u>बनम</u> / Vs.	ITO, TDS Ward. Hosur.
स्थायी लेखासं./जी आइ आर सं./ PAN/TAN No. AAAAT-3148-D /CHED-06487-F		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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17. आयकर अपील सं./ ITA No.1061/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited, Pochampalli Branch, Dharmapuri Main Road, Pochampalli, Dharmapuri Dist – 635 206.	<u>बनम</u> / Vs.	ITO, TDS Ward. Hosur.
स्थायी लेखासं./जी आइ आर सं./ PAN/TAN No. AAAAT-3148-D /CHED-06451-E		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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18. आयकर अपील सं./ ITA No.1062/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Marandahalli Branch, Near Jayanthi Theatre, Palacode Taluk Marandahalli, Dharmapuri Dist – 636 806.	<u>बनम</u> / Vs.	ITO, TDS Ward. Hosur.
स्थायी लेखासं./जी आइ आर सं./ PAN/TAN No. AAAAT-3148-D /CHED-06517-A		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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19. आयकर अपील सं./ ITA No.1063/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited, Denkanikottai Branch, Kelamangalam Main Road, Opp. to Police quarters,	<u>बनम</u> / Vs.	ITO, TDS Ward. Hosur.
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Denkanikottai, Krishnagiri Dist– 635 107.		
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06508-F		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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20.आयकरअपील सं./ ITA No.1064/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Uthangarai Branch, 142D, Ravathur Thottam, Uthangarai, Krishnagiri Dist– 635 207.	<u>बनम</u> / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06494-F		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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21.आयकरअपील सं./ ITA No.1065/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited Bommidi Branch, 63/42, Santhai pettai, Salem Main Road, Bommidi – 635 301.	<u>बनम</u> / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06457-D		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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22.आयकरअपील सं./ ITA No.1066/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited Kelamangalam Branch, Govt.Boys Hr.Sec.School opposite Denkanikottai Road, Kelamangalam, Krishnagiri Dist-635 113.	<u>बनम</u> / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06525-B		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

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23.आयकरअपील सं./ ITA No.1067/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited Morrappur Branch,	<u>बनम</u> / Vs.	ITO, TDS Ward. Hosur.
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1/349, Harur Main Road, Morappur Harur Tk. Dharmapuri Dist-635 305.		
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06455-B		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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24.आयकरअपील सं./ ITA No.1068/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited , Rayakottai Branch, 1/62, A,51 Salem Main Road, Rayakottai, Denkanikottai Tk. Krishnagiri Dist-635 116.	बनाम / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06518-B		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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25.आयकरअपील सं./ ITA No.1069/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited Pennagaram Branch, 286, New Bus Stand, Pennagaram, Dharmapuri Dist-636 810.	बनाम / Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06461-A		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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26.आयकरअपील सं./ ITA No.1070/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited Pappireddipatti Branch 64, Rangammapettai, Pappireddipatti, Dharmapuri Dist-636 905.	बनाम/ Vs.	ITO, TDS Ward. Hosur.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No. AAAAT-3148-D /CHED-06456-C		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

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27.आयकरअपील सं./ ITA No.1071/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

M/s. Dharmapuri District Central Co-operative Bank Limited	बनाम / Vs.	ITO, TDS Ward.
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Karimangalam Branch, Palacode Road, Karimangalam, Dharmapuri Dist-635 111.		Hosur.
स्थायी लेखासं./जी आइ आर सं./PAN/TAN No.	AAAAT-3148-D	/CHED-06453-G
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी/ Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Shri T.Vasudevan (Advocate)- Ld. AR
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri D. Hema Bhupal (JCIT)-Ld. Sr. DR

सुनवाईकी तारीख/ Date of Hearing	:	30-10-2023
घोषणाकी तारीख/ Date of Pronouncement	:	31-10-2023

आदेश / ORDER

Per BENCH:

1. The grievance of the assessee in aforesaid appeals for Assessment Year (AY) 2020-21 is common i.e., demand raised u/s 201(1) / 201(1A) for default in deduction of tax at source (TDS) u/s 194N of the Income Tax Act. It is admitted position that facts as well as issues are identical in all the appeals. For the purpose of adjudication, ITA No.1045/Chny/2023 has been taken to be the lead case. This appeal arises out of the common order dated 31-07-2023 passed by learned Commissioner of Income Tax (Appeals)-18, Chennai [CIT(A)] in the matter of an order passed by learned Assessing Officer (AO) u/s 201(1) & 201(1A) of the Act on 12-03-2020. The grounds raised by the assessee read as under: -

1. The order of the Commissioner of Income Tax (Appeals) confirming the levy u/s.201 of Rs.452660 and the interest u/s.201(1A) of Rs.17672 is contrary to law, erroneous and unsustainable to the facts of the case.
2. The CIT(A) erred in holding the assessee as in default under sec. 194N of the Act for not effecting tax deduction at source on the amounts paid to PACCS towards Pongal Inam/gift and agrarian loans given by the State Government.
3. The CIT(A) further failed to appreciate that the amounts *per se* does not fall for consideration as income in the hands of assessee under sec.4, i.e., charging

section and hence there is no liability to effect TDS on the amounts transferred to PACCS.

4. The CIT(A) further failed to appreciate that the amounts does not partake the character of income in the hands of assessee-bank as it is only a conduit in the process of disbursement of moneys to the ration card holders, who are the beneficiaries of the State Govt. welfare schemes and hence there is no basis to hold the assessee as in default for not effecting TDS u/s.194N on the transfers made to PACCS.

5. The CIT(A) also failed to appreciate that sec.194N would apply only for cash withdrawals, whereas the assessee has effected Bank transfers to make the payments to PACCS and the PACCS withdraws and hands over the amounts to the beneficiaries of the State Government schemes.

6. The CIT(A) further failed to appreciate that the assessee had not withdrawn the amounts given by the State Exchequer and paid the PACCS in cash and treated to be in default for application of sec.201 and 201(1A) of the Act.

7.The CIT(A) further failed to appreciate that the PACCS withdrawing the cash for disbursement to beneficiaries, cannot be considered to be a default by the assessee of not effecting TDS and hence confirming the levy u/s.201 and 201(1A) are totally misconceived and untenable in law.

8.The CIT(A) failed to appreciate that the Madras High Court in the case of Tirunelveli DCCB Ltd. had excluded Pongal gift from the purview of sec.194N on the footing that assessee acted as business correspondents of the banks and that the same principle also applies to agrarian loans distributed to farmers and hence there was no default warranting levy u/s.201 and 201(1A).

9. The CIT(A) erred in placing reliance on the Madras High Court decision in the case of S.N.299 Molasi PACCS, as it was concerned with the writ petitions filed by the PACCS and is not applicable to the assessee Co-operative Bank and hence confirming the levy is unjust and untenable in law.

10. The CIT(A), alternative, ought to have appreciated that the PACCS are quasi-government bodies and seen in the context of Proviso to sec.194N excluding certain entities from the purview of the section, the transfers by assessee to PACCS would be outside the scope of sec. 194N of the Act.

11. The CIT(A), in any event, ought to have considered the contentions of the assessee in a proper perspective, held the assessee not liable to effect TDS u/s.194N of the Act and consequently no default lies on the assessee and thus deleted the levy of amounts under Sec.201 and Sec.201(1A) of the Act.

2. The Ld. AR advanced various arguments supporting the case of the assessee. The Ld. AR averred that the assessee being district central co-operative bank, has distributed welfare schemes through various co-operative societies (PACCS) and merely acted as a conduit for distribution of welfare schemes of State Government of Tamil Nadu. The Ld. AR also submitted that the cash withdrawals do not constitute

income in the hands of these societies and therefore, the impugned provisions of Sec.194N would not apply. The Ld. Sr. DR, on the other hand, referred to various decisions rendered by Hon'ble High Court of Madras, the latest being the decision in **Erode Mavatta Valaman Thodakka (153 Taxmann.com 71)**. A copy of the same has been placed on record. Having heard rival submissions and considering the directions of Hon'ble High Court of Madras, our adjudication would be as under.

Proceedings before Ld. AO

3.1 The assessee is a co-operative society carrying on the business of banking. Its branches are located at various locations / places across the districts of Dharampuri and Krishnagiri of Tamilnadu. A survey was conducted at head office of the assessee u/s 133A(2A) on 26.02.2020 wherein the TDS default u/s 194N was noted. This section was introduced by Finance Act 2019 which obligate the assessee society carrying on the business of banking to deduct TDS on cash withdrawals by recipients at prescribed rate of 2% for cash withdrawal beyond threshold limit of Rs.1 Crore. Certain exceptions has been provided which include payment made to government or payment to any business correspondent of a banking company or cooperative society engaged in carrying on the business of banking in accordance with prescribed authorization by RBI.

3.2 It transpired that the assessee made payment in cash in excess of prescribed threshold limit of Rupees One Crores in each case and therefore, it was obligated to deduct TDS u/s 194N. The failure to do so would make the assessee as assessee-in-default u/s 201(1) of the Act. It

also transpired that the aforesaid amount was drawn exclusively for disbursement of 'Pongal Gift' as announced by Government of Tamilnadu to family card holders. The Ld. AO also observed that the exclusion clause in Sec.194N does not exclude co-operative societies (other than cooperate societies engaged in carrying on the business of banking) from the purview of the section.

3.3 It was further noted by Ld. AO that various cooperative societies were account holders of the assessee bank. The assessee could not establish that these societies were carrying on the business of banking and regulated by Banking Regulation Act, 1949 rendering them ineligible for exemption from the application of the aforesaid provisions. These account holders also did not furnish any form 15G / 15H or certificate u/s 197 authorizing non-deduction or lower deduction of TDS.

3.4 Finally, Ld. AO held the assessee to be assessee-in-default u/s 201(1) and raised aggregate demand to Rs.4.70 Lacs u/s 201(1) & (1A) against the assessee which include interest demand of Rs.0.17 Lacs.

Appellate Proceedings

4.1 The Ld. CIT(A), vide common order dated 31.07.2023, disposed-off all the appeals of the assessee. The assessee, inter-alia, submitted that the State Government of Tamilnadu uses the infrastructure of the assessee and Agricultural Societies (PACCS) to distribute the cash support extended for ration card holders on the occasion of Pongal. For this purpose, Tamilnadu Civil Supplies Corporation (TNSC) is the nodal agency. The amount sanctioned by State Government is transferred by TNSC Bank Ltd. to the assessee bank, who in turn, transfers the funds through account transfers to the current accounts maintained with them

by these PACCS. These PACCS withdraws the cash from current account for payment of Rs.1000/- to each of the eligible beneficiary. Since the assessee bank only acted as pass-through agent or conduit in fulfilling the objectives of State Government to distribute Pongal Inam to ration card holders, the provisions of Sec.194N would not apply. The process of distribution was said to be in accordance with GO in DD (No.66) dated 26.11.2019. The assessee further submitted that this business correspondent model was promoted by RBI in 2006 to promote financial inclusion in India. The PACCS acted as business correspondents to pass on cash benefit as mandated by State Government. If the assessee had deducted applicable TDS of 2%, the same would amount to violation of mandate of the State Government. Therefore, the provisions of Sec.194N were to be harmoniously read to bring the real intention of the legislature. The assessee had distributed crop loans in the similar manner. Another argument was that the control and management of these entities was always with the State Government and the payment made to them would fall under first exclusionary clause which exempt payment made to government. The term government would also include quasi-government bodies. The assessee also referred to the decision of Hon'ble Madurai Bench of Madras High Court in the case of Tirunelveli District Co-operative Bank Ltd. rendered in WP(MD) No.6102 of 2020 on 27.07.2020 wherein Pongal Gifts were directed to be excluded from computation u/s 201.

4.2 The Ld. CIT(A) noted that the department preferred writ appeal against the aforesaid order dated 27.07.2020 passed by Hon'ble Single Judge. The Madurai Division Bench in WA(MD) No.1137 of 2020, order

dated 17.12.2020, granted interim stay of this order and the writ appeal was pending for adjudication. Therefore, this decision rendered in WP(MD) No.6102 of 2020 could not be relied upon. Similar stay was granted in WA(MD) No.1095 of 2020 by order dated 26.11.2020.

4.2 It was further noted that the assessee filed writ petition before Hon'ble High Court of Madras in WP No.7409 of 2020 and Hon'ble Court vide order dated 01.06.2020 referred to decision in WP No.7199 of 2020 dated 20.03.2020 on identical issue and granted interim stay of recovery. The WP filed by the assessee was pending for adjudication.

4.3 It was further noted that in related matter in the case of **Molasi PACCS (WP No.171367 dated 04.11.2022)**, the Hon'ble Court dealt with the impugned issue. In para 22 of the order, It was observed that the examination whether cash withdrawals by member societies constitute income in their hands, could be carried out only in the instance of the societies and not at the instance of the bankers, who are payers, with statutory responsibility to deduction. Considering all these facts, Ld. CIT(A), pending disposal of writ petitions of the assessee, proceeded further to adjudicate the appeals.

4.4 The Ld. CIT(A), considering the statutory provisions of Sec.194N, rejected various arguments raised by the assessee. The provisions were introduced for TDS on cash withdrawals and it was not related to taxable income. The assessee's case does not fall under any of the exceptions. Finally, all the other argument as well as reliance on various case laws was rejected and the demand was confirmed. It was further observed that, in similar cases, some of the assessees had already approached the Central Government seeking relaxation from the application of

provisions of Sec.194N. Therefore, the assessee was at liberty to take this recourse under fourth proviso to Sec.194N. The Ld. AO was directed to take into account the relevant pending writ proceedings and take further action as per law. Aggrieved, the assessee is in further appeal before us.

Our findings and Adjudication

5. We find that the basic factual matrix is not under dispute. The assessee has distributed welfare schemes (Pongal Inam and Agricultural loans) as per policy of State Government. The funds have been transferred by the assessee to various Co-operative societies who apparently do not fall under the exception clause. These societies have withdrawn cash and distributed the same to various beneficiaries as per the Scheme of State Government. Accordingly, the provisions of Sec.194N have been held to be applicable to the assessee and impugned demand has been raised against the assessee. It has also been held that the case do not fall under any of the prescribed exceptions.

6. It also transpires to the bench that the assessee and similar other assesseees have already approached Hon'ble High Court of Madras in Writ jurisdiction wherein the recovery of demand has been stayed by Hon'ble Court but the final adjudication is pending. As rightly pointed out by Ld. Sr. DR, the latest decision has been rendered by Hon'ble Court in the case of Primary Agricultural Co-operative Credit Societies titled as **Erode Mavatta Valaman Thodakka (153 Taxmann.com 71)**. The Hon'ble Court, considering the directions given in all the other earlier orders, has directed as under: -

14. Therefore, at least four set of writ petitions have already been disposed of by four separate orders as cited *supra*.

15. Insofar as the order dated 3-3-2023 is concerned, the learned Judge has issued a Mandamus by way of directions in Para 5 of the order directing the Ministry of Finance, Government of India and the CBDT, New Delhi to immediately examine the representation given by the State Government written by the Chief Secretary, Government of Tamil Nadu dated 27-9-2022 and after affording an opportunity of hearing to the Government of Tamil Nadu and all stakeholders through public notice, a decision shall be taken with regard to the plea raised by them that whether these Co-operative Societies can be given exemption from the purview of section 194N of the Income-tax Act.

16. Though such a direction was given by this Court on 3-3-2023, even till date no such exercise seems to have been undertaken by the Ministry of Finance, Government of India or the CBDT. In this context, Dr. B. Ramasamy, learned Senior Central Government Standing Counsel appearing for the Income-tax Department submitted that within a reasonable period, the request made by the Government of Tamil Nadu through the letter dated 27-9-2022 by the Chief Secretary to Government, Government of Tamil Nadu would be considered and a decision would be taken.

17. In view of the said stand taken by the learned Senior Counsel appearing for the Income-tax Department, Government of India and by taking note of the earlier directions given by this Court as stated *supra* by the order dated 3-3-2023 to the said authorities to consider and pass orders on the request made by the Government of Tamil Nadu through their letter dated 27-9-2022 of the Chief Secretary to Government, this Court is inclined to dispose of all these writ petitions with the following orders.

"That already a direction has been given by the order dated 3-3-2023 to decide on merits, the request made by the Government of Tamil Nadu through the Chief Secretary to the Government dated 27-9-2022 and since the learned Standing Counsel requested further time to decide the same on merits, I feel that further time of six weeks can be granted, within which the Ministry of Finance, Government of India and the CBDT, New Delhi would decide the request made by the Government of Tamil Nadu through the letter of the Chief Secretary to Government of Tamil Nadu dated 27-9-2022, seeking exemption for all those Primary Co-operative Credit Societies functioning in the State of Tamil Nadu from the purview of Section 194N of the Income-tax Act and accordingly pass orders thereon and communicate the same to the State of Tamil Nadu."

18. With the above direction, all these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

7. It could be seen that Hon'ble Court has granted six weeks time to Ministry of Finance, Government of India and the CBDT, New Delhi to decide the request made by the Government of Tamil Nadu through the letter of the Chief Secretary to Government of Tamil Nadu dated 27-9-

2022, seeking exemption for all those Primary Co-operative Credit Societies functioning in the State of Tamil Nadu from the purview of Section 194N of the Income-tax Act and accordingly pass orders thereon and communicate the same to the State of Tamil Nadu. The issue of applicability of Sec.194N to the PACCS has thus been directed to be considered by the appropriate organs of the Government of India. The bench has been made aware that the same is still pending for disposal. Under these circumstances, the bench is of the considered opinion that the aforesaid disposal by appropriate authorities would have direct bearing on the demand raised against the assessee and the issue of applicability of Sec.194N to co-operative societies, itself, is under consideration by appropriate authorities. On this fact, the bench deem it fit to set aside the impugned orders passed by learned first appellate authority, in all the appeals, and restore all the appeals back to the file of Ld. CIT(A) keeping all the issues open. The Ld. CIT(A) shall adjudicate the appeals de-novo in the light of outcome of aforesaid disposal of representation made by Government of Tamil Nadu before appropriate authorities. All these appeals stand disposed-off accordingly.

8. All the appeals stand allowed for statistical purposes.

Order pronounced on 31st October, 2023.

Sd/-

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई Chennai; दिनांक Dated :31-10-2023

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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखासदस्य / ACCOUNTANT MEMBER