



2023:KER:77883

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

TUESDAY, THE 5TH DAY OF DECEMBER 2023 / 14TH AGRAHAYANA, 1945

WP(C) NO. 29487 OF 2022

PETITIONER/S:

TDGSM CO-OPERATIVE SOCIETY LTD NO.R.1112,
PARAKKOTT LANE, PATTURAIKKAL, THIRUVAMBADY, THRISSUR
REPRESENTED BY ITS SECRETARY JAINY JACOB, PIN - 680022
BY ADVS.
V.P.NARAYANAN
ALAN PRIYADARSHI DEV

RESPONDENT/S:

- 1 THE COMMISSIONER OF INCOME TAX,
DCIT CIRCLE 1 (1) & TPS , AAYKAR BHAVAN , INCOME TAX
OFFICE, SAKTHAN THAMPURAN NAGAR , THRISSUR, PIN -
680001
- 2 THE ADDITIONAL/JOINT/DEPUTY/ASSISTANT COMMISSIONER OF
INCOME TAX/INCOMETAX OFFICER,
NATIONAL FACELESS ASSESSMENT CENTRE INCOME TAX
DEPARTMENT, MINISTRY OF FINANCE, ROOM NO 401, 2ND
FLOOR, E-RAMP, JAWAHARLAL STADIUM, DELHI, PIN - 110003
BY ADVS.
ADV. P.G. JAYASHANKAR PGJ
KEERTHIVAS GIRI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT****Dated this the 5th day of December, 2023**

1.The present writ petition has been filed impugning Ext.P2 assessment order and demand.

2.The petitioner assessee did not file the returns of the assessment year 2016-2017. As per the information received through Multi-layer NMS cases in AIMS module of ITBA, the petitioner case was selected noticing the huge cash deposit during the financial year 2015-2016 and 2016-2017. The assessment of the petitioner case was reopened by issuance of notice under Section 148 of the Income Tax 1961 (the 'IT Act' for short). In response to the said notice, the petitioner had filed return of income for the assessment year 2016-2017 on 29.04.2021, declaring total income at 'Nil' after claiming deduction under Chapter VIA (80P) of Rs. 2,64,133/-. Subsequently, the petitioner was issued notices under Section 142(1) of the IT Act dated 08.07.2021 and 18.11.2021. However, the petitioner failed to respond with the notices. Finally one more opportunity by the notice under Section 142(1) of the Act was given to the petitioner on 24.02.2022. The petitioner did not avail of the opportunities of being heard, and the petitioner did not cooperate with the proceedings. Therefore, keeping in view of the time limit to complete the assessment, the best judgment



assessment order was passed under Section 144 of the IT Act exparte, the petitioner did not submit the return in response to the notice under Section under Section 148 of the IT Act.

3.Learned counsel for the petitioner submits that the petitioner did not receive the notice. However, this contention cannot be accepted in view of the system which has been placed for communication of notices , orders etc., therefore I do not find any ground to entertain this writ petition against the impugned assessment order.

In the result, this writ petition is dismissed, leaving it open to the petitioner to avail remedy of appeal if any, or such other remedies are available. If the petitioner approached the appellate, the appellate authority should proceed to decide the appeal in accordance with law, expeditiously.

Sd/-

**DINESH KUMAR SINGH
JUDGE**

SJ

APPENDIX OF WP(C) 29487/2022**PETITIONER EXHIBITS**

- Exhibit P1** TRUE COPY OF CERTIFICATE OF REGISTRATION OF THE SOCIETY BY JOINT REGISTRAR OF CO-OP SOCIETIES (GENERAL) THRISSUR
- Exhibit P2** TRUE COPY OF ASSESSMENT ORDER DATED 25.3.2022 FOR AY 2016-17
- Exhibit P3** TRUE COPY OF NOTICE DATED 10.8.2022 ISSUED BY THE 1ST RESPONDENT
- Exhibit P3(a)** TRUE COPY OF REPLY TO NOTICE DT 10.8.2022 UNDER SECTION 274 READ WITH SECTION 271(1) (B) DATED 18.08.2022
- Exhibit P4** TRUE COPY OF NOTICE UNDER SECTION 274 READ WITH SECTION 271(1)(C) DATED 10-08-2022
- Exhibit P4(a)** TRUE COPY OF REPLY TO NOTICE DATED 10-08-2022 UNDER SECTION 274 READ WITH SECTION 271(1)(C) DATED 18-08-2022
- Exhibit P5** TRUE COPY OF NOTICE DATED 10-08-2022 UNDER SECTION 274 READ WITH SECTION 271B
- Exhibit P5(a)** TRUE COPY OF REPLY DT 18-08-2022 TO NOTICE DATED 10-08-2022 UNDER SECTION 274 READ WITH SECTION 271B SECTION
- Exhibit P6** TRUE COPY OF NOTICE DATED 10-08-2022 UNDER SECTION 274 READ WITH SECTION 271F
- Exhibit P6(a)** TRUE COPY OF REPLY DATED 18-08-2022 TO NOTICE UNDER SECTION 274 READ WITH SECTION 271F DATED 10-08-2022