

W.P.Nos.16019, 16039 & 16044 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 13.06.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.16019, 16039 & 16044 of 2025

and

W.M.P.Nos.18121, 18123, 18147, 18148 & 18156 of 2025

W.P.No.16019 of 2025

PE65 The Modakkurichi Circle Teachers
And Public Servants Cooperative T & C Society
Rep. by its Secretary (In-Charge),
7, Co-operative Park
Modakukkurichi
Erode - 638104.
PAN : AADAM0638C

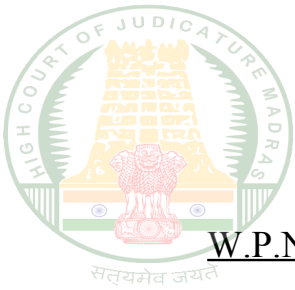
... Petitioner

Vs.

1. The Principal Commissioner of Income Tax-1,
REAC, Coimbatore,
Coimbatore,
Tamilnadu - 641 018.

2. The Income Tax Officer,
Ward 2(1)
Flat No.R2, Nallappa Street,
Periyar Nagar,
Erode - 638 001.

... Respondents



W.P.Nos.16019, 16039 & 16044 of 2025

W.P.No.16039 of 2025

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And Public Servants Cooperative T & C Society
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1. The Principal Commissioner of Income Tax-1,
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2. The Income Tax Officer,
Ward 2(1)
Flat No.R2, Nallappa Street,
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Erode - 638 001.

... Respondents

W.P.No.16044 of 2025

PE65 The Modakkurichi Circle Teachers
And Public Servants Cooperative T & C Society
Rep. by its Secretary (In-Charge),
7, Co-operative Park
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Erode – 638104.
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Vs.



W.P.Nos.16019, 16039 & 16044 of 2025

1. The Principal Commissioner of Income Tax-1,
REAC, Coimbatore,
Coimbatore,
Tamilnadu – 641 018.

2. The Income Tax Officer,
Ward 2(1)
Flat No.R2, Nallappa Street,
Periyar Nagar,
Erode – 638 001.

... Respondents

Prayer in W.P.No.16019 of 2025: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 2nd respondent in PAN : AABTP3555C passed in Impugned Order u/s 143(3) dated 28.03.2023 in DIN:ITBA/AST/S/147/2022-23/1051442432(1) and consequential order u/s 264 dated 24.09.2024 passed by the 1st respondent in DIN:ITBA/REV/F/REV7/2024-25/1069032137(1) for the AY 2018-19 under the surrendered old PAN AABTP3555C and quash the same.

Prayer in W.P.No.16039 of 2025: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 2nd respondent in PAN : AABTP3555C passed in Impugned assessment Order u/s 147 r.w.s. 144 dated 25.03.2023 in DIN:ITBA/AST/S/147/2022-23/1051287616(1) and consequential order u/s 264 dated 24.09.2024 passed by the 1st respondent in DIN:ITBA/REV/F/REV7/2024-25/1069033656(1) for the AY 2015-16 under the surrendered old PAN AABTP3555C and quash the same.



W.P.Nos.16019, 16039 & 16044 of 2025

Prayer in W.P.No.16044 of 2025: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 1st respondent in DIN:ITBA/PNL/F/271(1)(C)/2024-25/1074441222(1) and quash the impugned penalty order u/s 271(1)(C) dated 12.03.2025 passed by the 1st respondent for the AY 2015-16 under the surrendered Old PAN AABTP3555C.

For Petitioner : Mr.G.Vardini Karthik

For Respondents : Dr.B.Ramaswamy
Senior Standing Counsel

COMMON ORDER

Heard Mr.G.Vardini Karthik, learned counsel appearing for the petitioner and Dr.B.Ramaswamy, learned Senior Standing Counsel appearing for the respondents.

2. The challenges in these Writ Petitions are made against :

i) Impugned Assessment Order dated 25.03.2023 passed by the 2nd respondent and consequential order dated 24.09.2024 passed by the 1st respondent, pertaining to the assessment year 2015-16.

ii) Impugned Assessment Order dated 28.03.2023 passed by the 2nd



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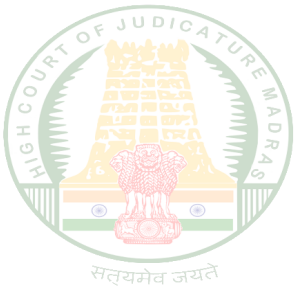
respondent and consequential order dated 24.09.2024 passed by the 1st

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respondent, pertaining to the assessment year 2018-19.

iii) Impugned Penalty Order dated 12.03.2025 passed by the 1st respondent, pertaining to the year 2015-16.

3. The learned counsel for the petitioner would submit that, in the present case, originally return was filed on 12.01.2024 for the assessment year 2018-19. Earlier, the petitioner had filed a condone delay petition on 03.10.2023 before the Chief Commissioner of Income tax, requesting to condone the delay in filing the return. The said petition was allowed and subsequently, the return filed by the petitioner on 12.01.2024 was accepted as filed. However, due to change in the name of the management, the petitioner was not aware of the notices issued in the Old PAN Number and therefore, the petitioner did not file any reply to the notices and participate in the proceedings. However, without hearing it, the 2nd respondent has passed the impugned assessment order dated 28.03.2023.

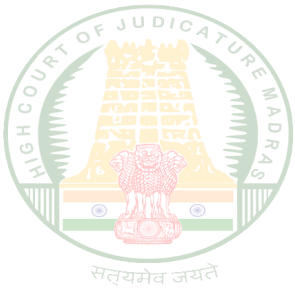


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4. As regards the assessment year 2015-16, the learned counsel for

the petitioner would submit that, the petitioner did not file his return of income for the reason that, it was under the Old PAN Number issued under the status of Trust and that, he had been allotted a New PAN Number under the correct status treating them as Association of persons. Further, the learned counsel would submit that, the subsequent notices were also issued in the Old PAN Number and therefore, the petitioner was not aware of the same. Hence, he did not respond to the notices and participate in the proceedings. However, without hearing him, the 2nd respondent passed the assessment order on 25.03.2023 and following the same, 1st respondent passed the penalty order on 12.03.2025.

5. The learned counsel for the petitioner would further submit that, as against the impugned orders, the petitioner filed a petition under Section 264 before the 1st respondent. However, the same was rejected on the ground that, the petitioner had failed to participate in the proceedings and provide suitable reply before the Assessing Officer, hence, the petition under Section 264 cannot be considered.



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6. The Learned Senior Standing Counsel appearing for the

respondents would submit that, initially, the petitioner had one PAN Number in the name of its Trust and subsequently, the Trust was converted into a Society and therefore, a new PAN Number was issued to the petitioner. However, the petitioner had all the transactions in the Old PAN Number i.e. in the name of Trust. Hence, the respondent had used Old PAN Number to all the transactions.

7. Further, the Learned Senior Standing Counsel would submit that, when the petitioner has claimed that, they have been regularly filing return of income under New PAN Number from the Assessment Year 2014-15, none of the documents were produced before the Assessing Officer to prove the said fact, hence, the petition under Section 264 was rejected by the Assessing Officer. However, the Learned Senior Standing Counsel would fairly submit that, in the event, the petitioner is ready to deposit the amount of cost which is to be fixed by this Court, the prayer sought for by the petitioner may be considered with heavy cost.

8. I have given due consideration to the submissions made on



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either side and perused the materials available on record.

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9. In the present case, the petition under Section 264 was rejected for the reason that, the petitioner had failed to file any reply or produce any documentary evidences to demonstrate the case before the Assessing Officer. The reason given by the petitioner for not participating in the assessment proceedings was because of change in the name of the Management. According to the petitioner, due to change in the name of the management of the society, the notices were served in the Old PAN Number instead of New PAN Number, hence, he was not aware of the notices and therefore, he could not participate in the proceedings.

10. This Court is of the considered opinion that, merely because of non participation of the assessment proceedings, the valuable right of the petitioner would not be deprived of to prosecute a case under Section 264. Initially, the petitioner's society had been registered as a Trust and subsequently, it has been converted into a society. So, therefore some practical difficulties were aroused in the management of the society, due to the change in the name of the management. Considering this aspect, in



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the interest of justice, to give one more opportunity to the petitioner, this

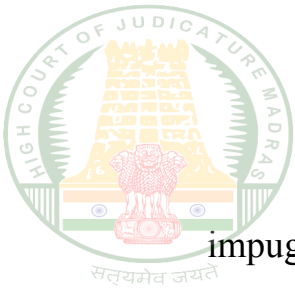
Court is inclined to set aside the impugned orders passed under Section 264 along with the best judgment assessment orders passed under Section 143 & 147 and remand the matter to the Assessing Officer / 2nd respondent for fresh consideration.

11. Accordingly, this Court is inclined to pass the following orders/directions:-

(i) The impugned orders dated 25.03.2023 and 28.03.2023 passed by the 2nd respondent, and consequential order dated 24.09.2024 passed by the 1st respondent and further, the impugned penalty order dated 12.03.2025 passed by the 1st respondent, are hereby set aside.

(ii) Consequently, the matters in W.P.Nos.16019 and 16039 of 2025, are remanded to the 2nd respondent / Assessing Officer, for fresh consideration.

(iii) While remanding the matter, it is made clear that, the



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impugned orders are set aside subject to payment of cost of Rs.10,000/-

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to the Principal Government Naturopathy Medical College and Hospital,

Account No.7883022723, IFSC Code: IDIB000M157, and the same shall

be paid by the petitioner, within a period of two weeks from the date of

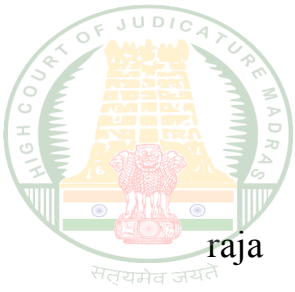
receipt of a copy of this order.

(iv) Upon making of such payment, the petitioner shall file a reply along with supportive documents within a period of four weeks, and

(v) On receipt of the reply from the petitioner, the 2nd respondent / Income Tax Officer shall afford an opportunity of personal hearing to the petitioner by issuing appropriate notice to the petitioner and thereafter, to decide the matter in accordance with law.

12. In the result, these Writ Petitions stand allowed on the aforesaid terms. Consequently, connected miscellaneous petitions are closed. No costs.

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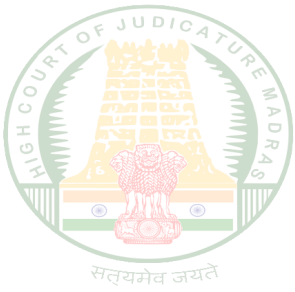
Index : yes/no

Internet : yes/no

Speaking Order / Non-Speaking Order

To

1. The Principal Commissioner of Income Tax-1,
REAC, Coimbatore,
Coimbatore,
Tamilnadu - 641 018.
2. The Income Tax Officer,
Ward 2(1)
Flat No.R2, Nallappa Street,
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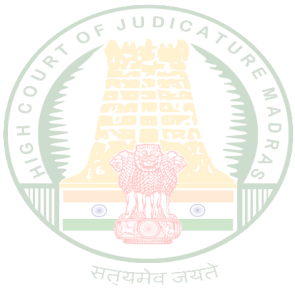
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KRISHNAN RAMASAMY, J.

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