(2014) 05 MAD CK 0015

In the Madras High Court

Case No : Writ Petition Nos. 13288 to 13294 of 2014 and M.P. Nos. 1 (7 M.Ps.) of 2014

The Coimbatore District Central Co-operative Bank Limited, Avinashi Branch — APPELLANT

Vs

The Income Tax Officer, Tiruppur — RESPONDENT

Date of Decision : 08-05-2014

Acts Referred:

Constitution of India, 1950 — Article 226
Income Tax Act, 1961 — Section 131(1A), 194A(3)(v), 201(1), 201(1A), 246A

Citation : (2014) 05 MAD CK 0015

Hon'ble Judges : R. Sudhakar, J

Bench : Single Bench

Judgement

R. Sudhakar, J.—These Writ Petitions have been filed by the Coimbatore District Central Co-operative Bank Limited, Avinashi Branch to call for the records pertaining to the impugned orders passed by the respondent u/s 201(1) and 201(1A) of the Income Tax Act, 1961 relating to the assessment years 2008-09 to 2014-15 and to quash the same.

2. Heard both sides.

3. The assessee deductor is in the business of banking. When a survey was conducted in the business premises of the bank on 14.11.2013 by the Deputy Commissioner of Income Tax, TDS Circle, Coimbatore it was found that the assessee was not deducting tax at source on the interest paid to the depositors. Hence a notice u/s 131(1A) of the Income Tax Act, 1961 was issued on 24.03.2014 calling upon the petitioner to furnish branch wise details of deposits attracting TDS provisions. Since the assessee could not produce the details as called for by the Department, based on the data available with the Department, the assessment orders have been passed for various assessment years and consequently the assessment was made in terms of Section 201(1) and 201(A) of the Income Tax Act, 1961.

4. Learned counsel appearing for the petitioner submitted that the Co-operative Banks are exempted from making tax deduction at source in terms of Section 194A(3)(v) of the Income Tax Act, 1961. He further submitted that the Authority declined to accept the plea of the assessee and passed the assessment orders demanding tax and interest relating to the assessment years 2008-09 to 2014-15 and that order is now under challenge in these batch of writ petitions.

5. Learned Standing counsel appearing for the Income Tax Department submitted that the petitioner has got an appeal remedy u/s 246A of the Income Tax Act, 1961 and without exhausting the said provision, the petitioner has come before this Court by way of these writ petitions.

6. Considering the facts and law, the plea of the petitioner that the impugned assessment orders and the demand notice have to be set aside cannot be countenanced as the Act specifically provides an appeal remedy and the same has to be exhausted first by the petitioner before approaching this Court under Article 226 of the Constitution of India. Hence, the writ petitions at this stage are not maintainable and the same are dismissed. However, liberty is given to the petitioner to file an appeal before the appropriate authority as against the impugned orders within a period of thirty days'' from today. On such appeal being filed, the authority shall decide the same on merits and in accordance with law without rejecting it, only on the ground of limitation.

7. With the above direction, these writ petitions are dismissed. Consequently connected miscellaneous petitions are closed. No costs.