IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 3419 OF 2023 (GM-RES)

BETWEEN:

1. RAITHA SEVA SAHAKARA
SANGHA NIYAMITA
A PRIMARY AGRICULTURE CREDIT
CO OPERATIVE SOCIETY REGISTERED
UNDER THE PROVISIONS OF THE
KARNATAKA CO OPERATIVE
SOCIETIES ACT 1959,
HAVING ITS OFFICE AT
GAAVADAGERE VILLAGE,
HUNSUR TALUK,
MYSURU DISTRICT 571 610
REPRESENTED BY ITS
CHIEF EXECUTIVE OFFICER
SHRI ANANDA N

...PETITIONER

(BY SRI. PALLAVA R.,ADVOCATE)

AND:

1. THE UNION OF INDIA
REPRESENTED BY ITS SECRETARY
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
ROOM NO.48C, NORTH BLOCK,
NEW DELHI 110 001

2. CENTRAL BOARD OF DIRECT TAXES
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
GOVERNMENT OF INDIA,
NORTH BLOCK, SECRETARIAT BUILDING,
NEW DELHI 220 001

3. THE DEPARTMENT OF INCOME TAX
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
GOVERNMENT OF INDIA,
ROOM NO 48C, NORTH BLOCK,
NEW DELHI 210 001
REPRESENTED BY ITS DIRECTOR

4. THE BANK OF BARODA
A BANKING COMPANY UNDER
THE PROVISIONS OF THE
REGULATION ACT, 1949
HAVING ITS OFFICE AT
BARODA HOUSE,
MANDVI, BARODA,
GUJARAT STATE 390 001,
REPRESENTED BY ITS
GENERAL MANAGER

5. THE BRANCH MANAGER
BANK OF BARODA,
GAVADAGERE BRANCH,
HUNSUR TALUK,
MYSURU DISTRICT 571 610

...RESPONDENTS

(BY SRI.MADANAN PILLAI.R.,CGC FOR R1
SRI. E.I.SANMATHI, FOR R2 & R3
SMT.P.CHITHRA NIRMALA.,ADVOCATE FOR
R4 & R5 (ABSENT)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R-5 HEREIN TO REMOVE THE LIEN OF RS.31,51,475/- (RUPEES THIRTY ONE LAKH FIFTY ONE THOUSAND FOUR HUNDRED SEVENTY FIVE ONLY) MARKED ON THE PETITIONERS CURRENT ACCOUNT BEARING NO. 79650200000016 AND FURTHER DIRECT THE R-5 TO PERMIT THE PETITIONER SOCIETY TO WITHDRAW THE SAID AMOUNT WITH THE INTEREST AS APPLICABLE TO THE ACCOUNT AS ON THE DATED OF MARKING OF THE LIEN BY THE R-5.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN B GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL ORDER

1. Petitioner-Primary Agriculture Credit Co-operative Society is before this Court being aggrieved by the action of respondent No.5-Bank in freezing its current accounts by creating a lien of Rs.31,51,475/-, purportedly towards the Tax Deduction at Source (TDS) as per Section 194A of the Income Tax Act, 1961 ('the Act' for short) as amended by the Finance Act, 2020.

2. Brief facts of the case are that petitioner is providing credit facilities to small and marginal farmers. Petitioner has maintained its current account with respondent No.5-

Bank of Baroda. The annual transaction in the said current account is about Rs.44 Crores.

3. That on 01.09.2020, without prior notice to the petitioner-Society the respondent No.5-Bank created a lien of Rs.31,51,475/- towards TDS as per Section 194A of the Act, 1961 as amended by the Finance Act, 2020.

4. That the petitioner had requested the respondent No.5-Bank to defreeze the account, which was not responded to. Petitioner had also approached Banking Ombudsman at RBI, who declined to consider the same on the premise of the issue being outside the purview of the Ombudsman Scheme, 2021. Hence, the petition.

5. Learned counsel for the petitioner drawing attention to the provisions of Section 271C of the Act, 1961 submits that deduction of tax at source is the primary responsibility of the person making the payment. Failure of compliance of this requirement would result in imposition of penalty on the person, who is fastened with such liability.

6. That in the instant case, he submits the petitioner-Society being a constituent of respondent No.5-Bank, had merely operated the account as a customer withdrawing the money from the Bank. Petitioner-Society was not making any payment. Applying the provisions of Section 271C of the Act, it was incumbent upon respondent No.5-Bank to have deducted tax at source at the time of making the payment, should the payment exceeded the prescribed limit provided under the Act. Failure on the part of respondent No.5-Bank, if any, would be governed under Provisions of Section 271C of the Act, to be determined by the Officer not below the rank of Joint Commissioner, Income Tax.

7. Circumventing the aforesaid legal consequences, he insists, respondent No.5-Bank has marked lien over the account maintained by the petitioner-Society, which is *per-se* illegal and without any authority. He also submits bank has no demonstrable authority to do what they have done in the instant case. Respondent No.5-Bank could not have created the lien to an extent of Rs.31,51,475/- even

when the balance maintained by the petitioner-Society was Rs.18,79,132/- as found at Annexure-A. He submits that the petitioner in the circumstances is not able to withdraw the amount of Rs.18,79,132/-.

8. He further submits that the issue pertains to the Assessment Year 2020-2021 and the petitioner-Co-operative Society has filed its Income Tax returns and also paid the tax as required to be paid in terms of the assessment and respondent No.3-Income Tax department has not raised any issue thus far. Therefore, he submits that respondent No.5-Bank be directed to remove the lien to an extent of ₹31,51,475/- though the balance amount even as on the date is only ₹18,79,132/- and permit the petitioner-Co-operative Society to withdraw the same.

9. Learned counsel for the petitioner-Society also seeks liberty to proceed against respondent No.5-Bank to redress its grievance for respondent No.5-Bank unauthorisedly preventing the petitioner-Society from operating the account.

10. Learned counsel appearing for respondent Nos.2 and 3, on the other hand does not dispute the legal position that, it is the obligation on the part of the payer to deduct tax at source at the time of making the payment, should the payment cross the limit prescribed under the Act. He submits as regard the liability of payment of tax and submission of Income Tax returns of the petitioner-Society, the same being a separate matter would be dealt with if circumstances and the law warrant. He does not dispute that the respondent No.5-Bank has no authority to exercise lien over the account maintained by the petitioner-Society under the pretext of petitioner not paying the tax.

11. There is no representation on behalf of respondent Nos.4 & 5-Bank.

12. Heard and perused the records.

13. Section 194N of the Act (though shown as Section 194A by the respondent No.5) as amended by the Finance Act, 2020 reads as under:

*"**194N. Every person, being,-***

(1) a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act);
(i) a co-operative society engaged in carrying on the business of banking;
or
(iii) a post office, who is responsible for paying any sum, being the amount or the aggregate of amounts, as the case may be, in cash exceeding one crore rupees during the previous year, to any person (herein referred to as the recipient) from one or more accounts maintained by the recipient with it shall, at the time of payment of such sum, deduct an amount equal to two per cent of such sum, as income-tax:

Provided that in case of a recipient who has not filed the returns of income for all of the three assessment years relevant to the three previous years, for which the time limit of file return of income under sub-section (1) of section 139 has expired, immediately preceding the previous year in which the payment of the sumis made to him, the provision of this section shall apply with the modification that-

(i) the sum shall be the amount or the aggregate of amounts, as the case may be, in cash exceeding twenty lakh rupees during the previous year; and

(ii) the deduction shall be-

(a) an amount equal to two per cent of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds twenty lakh rupees during the previous year but does not exceed one crore rupees; or

(b) an amount equal to five per cent of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds one crore rupees during the previous year:

Provided further that the Central Government may specify in consultation with the Reserve Bank of India, by notification in the Official Gazette, the recipient in whose case the first proviso shall not apply or apply at reduced rate, if such recipient satisfies the conditions specified in such notification:

Provided also that nothing contained in this section shall apply to any payment made to-

(i) the Government;

(ii) any banking company or co-operative society engaged in carrying on the business of banking or a post office;

(iii) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934 (2 of 1934);

(iv) any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007:

Provided also that the Central Government may specify in consultation with the Reserve Bank of India, by notification in the Official Gazette, the recipient in whose case the provision of this section shall not apply or apply at reduced rate, if such recipient satisfies the conditions specified in such notification."

14. Perusal of the aforesaid provision indicate that it is the responsibility of a person carrying on the business of Banking Company as provided under Banking Regulation Act, 1949, to deduct an amount equal to two percent of the aggregate amount paid in cash exceeding Rupees One Crore during the previous year. For the purpose of present case, it is respondent No.5-Bank, which is required to deduct the amount as required under the aforesaid provision under Section 194N of the Act.

15. Clearly the obligation/responsibility is casted on the person namely the entity carrying on the business of

Banking Company under the Banking Regulation Act, 1949.

16. In the instant case, respondent No.5-Bank undisputedly falling within the Provisions of Banking Regulation Act, 1949 of which the petitioner-Society is a customer, is paying the amount in terms of the banking transaction. The tax at two percent on the aggregate of payment of Rupees One Crore made in the previous years was required to be deducted by respondent No.5-Bank. This is the undisputed meaning, from the plain reading and understanding of Section 194N of the Act extracted hereinabove.

17. It is also relevant to refer to provisions of Section 271C of the Income Tax Act, 1961, which reads as under:

> "***271C. Penalty for failure to deduct tax at source.***
>
> *[(1) If any person fails to*
>
> *(a) deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B; or*
>
> *(i) pay the whole or any part of the tax as required by or under-*
>
> *(1) sub-section (2) of section 115-0; or*

> *(ii) the second proviso to section 194B,*
>
> *then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to deduct or pay as aforesaid.*
>
> *(2) Any penalty imposable under sub-section (1) shall be imposed by the [Joint] Commissioner."*

18. The aforesaid provision envisages proceedings resulting in imposition of penalty in the event of failure on the part of person/entity as that of respondent No.5-Bank herein to deduct the amount of two percent as mandated under Section 194N of the Act, referred to above.

19. The facts and circumstances of the present case, read in the light of aforesaid two Sections of the Act, do not remotely suggests the liability of deducting the amount at source by the customer as that of the petitioner-Society, nor does it contemplate imposition of any penalty on the petitioner either.

20. No objections have been filed by respondent No.5-Bank. However, a memo dated 15.07.2024 is filed enclosing certain gazette notifications and the circular as well as reply/clarification issued by the Banking Ombudsman.

21. Perusal of the said communication indicate that the petitioner herein had apparently approached the banking Ombudsman by filing a complaint against the lien imposed by respondent No.5-Bank. It appears in response to the said complaint the Ombudsman had called for clarification from respondent No.5-Bank and the communication dated 01.12.2021, referred to in the memo is a reply to the said clarification as sought for. Necessary to extract the said communication, which is as under:

> *"Sub: Banking Ombudsman complaint - 202122002010543- Raitha Seva sahakara Sangha*
>
> *With reference to captioned complaint, we would clarify the following queries*
>
> *1. Kindly clarify in details why a General Lien was marked on the A/c for non- payment of TDS by the bank.*
>
> *Reply As per the latest Income tax guidelines on Cash withdrawal tax, customer has to produce last 3 years IT returns to the Branch for updating the same in CBS system but customer has not provided the same. The total cash withdrawn from their Sahakar Sangha from 08/04/2020 to 27/08/2020 was Rs. 6,30,00,000(Rupees Six crore thirty lakhs only). Accordingly TDS was computed at the rate 5% on cash withdrawal (194N) as Rs. 31.50 lakhs on 31/08/2020. Since the customer has not maintained the sufficient balance in the account for collection of TDS amount, the system has marked lien for that TDS amount 31.50 lakhs. Due to the lien marked for collection of TDS amount, the customer was not able to withdraw the*

balance amount and the account was not freezed. We hereby enclosed the account statement

2. Whether bank has received any order from Tax Authorities for placing a lien?

Reply No, as per the Income tax rules, Bank has computed the TDS on cash withdrawal.

3. Kindly share copies of all communication with the complainant pertaining to the Issue In concern (as quoted in the previous reply)

Reply-we submitted our reply to legal notice sent the by Advocate on behalf of complainant. Copy of reply is enclosed"

22. Learned counsel for the petitioner-Society, on a query by this Court submits that petitioner indeed had approached the Ombudsman, complaining about the action of respondent No.5-Bank in creating lien over its account and he also confirms Ombudsman having sought for such clarification. He submits that the petitioner-Society did not pursue the matter further before the Ombudsman, has he had approached this Court by way of filing of the present petition.

23. Be that as it is. The clarification given by respondent No.5-Bank to the Ombudsman, as extracted herein above, indicate that the account of the petitioner-Society has not been freezed. However, the lien is created, for

the reason requiring petitioner-Society to furnish the Income Tax returns for the last 3 years for the relevant assessment years. The respondent No.5-Bank in the said reply has not indicated any of its power to create the lien. The said reply also clarifies that Income Tax authorities have also not taken any action or issued any directions to respondent No.5-Bank.

24. Needless to state, from the facts narrated above, submissions made and the documents produced by respondent No.5-Bank, it becomes clear that respondent No.5-Bank had no statutory authority to create a lien over the amount lying in the current account of the petitioner-Society.

25. Learned counsel for the petitioner-Society submits that the petitioner would furnish the Income Tax returns for the relevant 3 years to respondent No.5-Bank and if a direction is issued to respondent No.5-Bank to consider the same and release the account from the lien, purpose of the petition will be served.

26. Things being thus, the following order:

ORDER

(i) The writ petition is ***disposed of.***

(ii) Petitioner-Society shall furnish the Income Tax returns for three consecutive years of the relevant period to respondent No.5-Bank within 30 days from the date of receipt of certified copy of this order.

(iii) Respondent No.5-Bank shall release the lien and allow the petitioner to operate the account including withdrawing the amount lying there.

(iv) This is in the light of the fact emanating from the correspondence of the bank that, bank has no authority to create any lien. Since the bank has expressed the requirement of petitioner to furnish the Income Tax returns, the aforesaid direction is given. The direction shall not be construed as bank having authority to create the lien or otherwise.

(v) Liberty to the petitioner is also reserved to seek such remedy as may be available and permissible under law against the respondent Nos.4 and 5-Bank.

(vi) Needless to state that this order is only with regard to the rights and obligations between the petitioner and respondent No.5-Bank and they shall not come in the way of respondent Nos.2 and 3 taking any action as contemplated under the Income Tax Act, if situation so demands.

Sd/-
(M.G.S. KAMAL)
JUDGE

SPV
List No.: 1 Sl No.: 46