

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

FRIDAY, THE 8<sup>TH</sup> DAY OF SEPTEMBER 2023 / 17TH BHADRA, 1945

WP(C) NO. 15059 OF 2023

PETITIONER/S:

THE MUVATTUPUZHA HOUSING CO-OPERATIVE SOCIETY LTD E 299,  
KAVUMPADY, MUVATTUPUZHA P.O, ERNAKULAM, REPRESENTED  
BY ITS SECRETARY, PIN - 686661

BY ADV C.A.JOJO

RESPONDENT/S:

- 1 THE INCOME TAX OFFICER, WARD 1 & TPS, THODUPUZHA, TEMPLE  
ROAD, THODUPUZHA, IDUKKI, PIN - 685584
- 2 THE PRINCIPAL CHIEF COMMISSIONER, C R BUILDING, I S PRESS  
ROAD, COCHIN, PIN - 682018

BY ADV CHRISTOPHER ABRAHAM, INCOME TAX DEPARTMENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
08.09.2023, ALONG WITH WP(C).15154/2023, 15167/2023, THE COURT ON THE SAME  
DAY DELIVERED THE FOLLOWING:

**W.P.(C) Nos.15059/2023, 15154/2023, 15167/2023**

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

FRIDAY, THE 8<sup>TH</sup> DAY OF SEPTEMBER 2023 / 17TH BHADRA, 1945

WP(C) NO. 15154 OF 2023

PETITIONER/S:

PUTHENCROUZ GOVT.SERVANT'S CO-OPERATIVE SOCIETY LTD, NO. E  
153, PUTHENCROUZ P.O, ERNAKULAM, COCHIN -682308,  
REPRESENTED BY ITS SECRETARY

BY ADV C.A.JOJO

RESPONDENT/S:

- 1 THE INCOME TAX OFFICER, NON CORP WARD 1(1), KOCHI, C. R.  
BUILDING, I.S PRESS ROAD COCHIN-682018
- 2 THE PRINCIPAL CHIEF COMMISSIONER, C R BUILDING, I S PRESS  
ROAD, ERNAKULAM COCHIN, PIN - 682018

BY ADV CHRISTOPHER ABRAHAM, INCOME TAX DEPARTMENT

OTHER PRESENT:

CHRISTOPHER ABRAHAM-SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
08.09.2023, ALONG WITH WP(C).15059/2023 AND CONNECTED CASES, THE COURT  
ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

FRIDAY, THE 8<sup>TH</sup> DAY OF SEPTEMBER 2023 / 17TH BHADRA, 1945

WP(C) NO. 15167 OF 2023

PETITIONER/S:

KOOTHATTUKULAM FARMERS SERVICE CO-OPERATIVE BANK LTD, E  
45, KOOTHATTUKULAM P.O, ERNAKULAM -PIN-686662  
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV C.A.JOJO

RESPONDENT/S:

- 1 THE INCOME TAX OFFICER, WARD 1 & TPS, THODUPUZHA, TEMPLE  
ROAD, THODUPUZHA, IDUKKI, PIN -685584
- 2 THE PRINCIPAL CHIEF COMMISSIONER, C R BUILDING, I S PRESS  
ROAD, ERNAKULAM, COCHIN, PIN - 682018

BY ADV CHRISTOPHER ABRAHAM, INCOME TAX DEPARTMENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
08.09.2023, ALONG WITH WP(C).15059/2023 AND CONNECTED CASES, THE COURT  
ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

[WP(C) Nos.15059/2023, 15154/2023, 15167/2023]

The present writ petitions have been filed impugning the notices issued under Section 148 of the Income Tax Act 1961 and further proceedings taken pursuant to the notices issued for the Assessment Year 2019-20.

2. The petitioners are Co-operative Societies registered under the provisions of the Kerala Co-operative Societies Act 1969 and Rules made thereunder. The petitioners did not file the return of their income for the Assessment Year 2019-20 on the belief that the petitioners' entire income was exempt under Section 80P of the Income Tax Act, and, therefore, they were not required to file the return of their income.

3. The assessing authority believes that the petitioners have concealed their income and tried to escape the assessment. The petitioners were therefore issued notices

under Section 148A, and after considering their response, the orders in Ext.P3 were passed for proceeding against them. In response to the orders passed under Section 148 of the Income Tax Act, the petitioners have not filed their return of income.

4. After some argument, the learned Counsel for the petitioners submits that these petitions may be disposed of with liberty to the petitioners to file the return of income and take all the pleas which are available to them under the law in respect of their claim for their income being jumped under Section 80P of the Income Tax Act.

5. Considering the said submission, the present writ petitions are disposed of with liberty to the petitioners to file returns of their income within a period of one month from today. If the petitioners file their return of income within a period of one month from today, the assessing authority will examine the return in accordance with the law and pass the final assessment orders expeditiously.

With the aforesaid direction, the writ petitions stand finally disposed of.

Sd/-

DINESH KUMAR SINGH

JUDGE

jjj

APPENDIX OF WP(C) 15154/2023

PETITIONER EXHIBITS

- |            |  |
|------------|--|
| Exhibit P1 | A TRUE COPY OF THE NOTICE U/S 148A(B) DATED 08.02.2023 ISSUED BY THE 1ST RESPONDENT            |
| Exhibit P2 | A TRUE COPY OF THE REPLY SUBMITTED TO THE 1ST RESPONDENT DATED 14.02.2023                      |
| Exhibit P3 | A TRUE COPY OF THE ORDER UNDER CLAUSE (D) OF S.148A DATED 22.03.2023 ISSUED THE 1ST RESPONDENT |
| Exhibit P4 | A TRUE COPY OF THE STATUS QUO ORDER IN WP ( C) 24112 OF 2019 DATED 04.09.2019                  |
| Exhibit P5 | A TRUE COPY OF THE STAY ORDER IN WP ( C) 4368 OF 2023 DATED 12.04.2023                         |

RESPONDENT EXHIBITS

- |                |  |
|----------------|--|
| Exhibit R1(a)  | copy of the Supreme Court judgment dated 02.09.2022 in the case of anshul Jain v. Principal Commissioner of Income tax and another [2022] 449 ITR 256 (SC)                 |
| Exhibit R1 (b) | Copy of the judgment of the Punjab and Haryana High Court in the case of Anshul Jain v. Principal Commissioner of Income Tax dated 02.06.2022 [2022] 449 ITR 251 (P and H) |
| Exhibit R1(c)  | Copy of the judgment of the Kerala High Court dated 07.12.2022 in W.P. (C) No. 37527 of 2022 in the case of M/s Viswabharathi Medicals v. Income Tax Officer               |

APPENDIX OF WP(C) 15167/2023

PETITIONER EXHIBITS

Exhibit P1	A TRUE COPY OF THE LETTER DATED 30.01.2023 ISSUED BY THE 1ST RESPONDENT
Exhibit P2	A TRUE COPY OF THE REPLY SUBMITTED TO THE 1ST RESPONDENT DATED 10.02.2023
Exhibit P3	A TRUE COPY OF THE NOTICE U/S 148A(B) DATED 28.02.2023 ISSUED BY THE 1ST RESPONDENT
Exhibit P4	THE RELEVANT PAGE OF COPY OF THE AUDITED BALANCE SHEET AND PROFIT AND LOSS STATEMENT OF THE PETITIONER FOR FY 2018-19 DATED 23.09.2019
Exhibit P5	A TRUE COPY OF THE STATUS QUO ORDER IN WP ( C ) 24112 OF 2019 DATED 04.09.2019
Exhibit P6	A TRUE COPY OF THE STAY ORDER IN WP ( C ) 4368 OF 2023 DATED 12.04.2023

RESPONDENT EXHIBITS

Exhibit R1(a)	Copy of the Supreme Court judgment dated 02.09.2022 in the case of Anshul Jain v. Principal Commissioner of Income Tax and another [2022] 449 ITR 256 (SC)
Exhibit R1 (b)	Copy of the judgment of the Punjab and Haryana High Court in the case of Anshul Jain v. Principal Commissioner of Income Tax dated 02.06.2022 [2022] 449 ITR 251 (Pand H)
Exhibit R1(c)	Copy of the judgment of the Kerala High Court dated 07.12.2022 in W.P.(C). No.37527 of 2022 in the case of m/s Viswabharathi Medicals v. Income Tax Officer
Exhibit R1(d)	True copy of the order dated 23.03.2023 passed under clause (d) of section 148A of the Income Tax Act.
Exhibit R1(e)	True copy of notice under section 148 of the Income Tax Act dated 27.03.2023 calling for return of income for Assessment Year 2019-20

**APPENDIX OF WP(C) 15059/2023**

**PETITIONER EXHIBITS**

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|------------|--|
| Exhibit P1 | A TRUE COPY OF THE NOTICE U/S 148A(B) DATED 02.03.2023 ISSUED BY THE 1ST RESPONDENT            |
| Exhibit P2 | A TRUE COPY OF THE REPLY SUBMITTED TO THE 1ST RESPONDENT DATED 10.02.2023                      |
| Exhibit P3 | A TRUE COPY OF THE ORDER UNDER CLAUSE (D) OF S.148A DATED 25.03.2023 ISSUED THE 1ST RESPONDENT |
| Exhibit P4 | A TRUE COPY OF THE NOTICE U/S S.148 DATED 27.03.2023 ISSUED THE 1ST RESPONDENT                 |
| Exhibit P5 | A TRUE COPY OF THE STATUS QUO ORDER IN WP ( C) 24112 OF 2019 DATED 04.09.2019                  |
| Exhibit P6 | A TRUE COPY OF THE STAY ORDER IN WP ( C) 4368 OF 2023 DATED 12.04.2023                         |

**RESPONDENT EXHIBITS**

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|----------------|---|
| Exhibit R1(a)  | Copy of the Supreme Court decision dated 02.09.2022 in the case of Anshul Jain v Principal Commissioner of Income Tax and Another {2022} 449 ITR 256 (SC)                   |
| Exhibit R1 (b) | Copy of the Judgment of the Punjab and Haryana High Court in the case of Anshul Jain v. Principal Commissioner of Income Tax dated 02.06.2022, [2022] 449 ITR 251 (P and H) |
| Exhibit R1(c)  | Copy of the Judgment of the Kerala High Court dated 07.12.2022 in W.P.(C) No. 37527 of 2022 in the case of M/s Viswabharathi Medicals v. Income Tax Officer                 |