

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 28<sup>TH</sup> DAY OF APRIL, 2020/8TH VAISAKHA, 1942

W.P(C) NO.9339 OF 2020

PETITIONER:

OLLUKKARA SERVICE CO-OPERATIVE BANK LIMITED,  
NO.544 REPRESENTED  
BY ITS SECRETARY, MANNUTHY P.O,  
THRISSUR DISTRICT, KERALA, PIN-680561

BY ADV. SRI.C. A. JOJO.

RESPONDENT/RESPONDENTS:

1. THE INCOME TAX OFFICER, WARD2 (3),  
AYAKAR BHAVAN, SAKTHAN STAND, THRISSUR-68001
2. THE COMMISSIONER,  
AYAKAR BHAVAN, SAKTHAN STAND, THRISSUR-68001
3. THE ASSISTANT REGISTRAR, INCOME TAX APPELLATE TRIBUNAL,  
COCHIN BENCH, KAKKANAD, COCHIN-682037

SRI. JOSE JOSEPH, SC

THIS WRIT PETITION HAVING COME UP FOR ADMISSION ON  
28.04.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## JUDGMENT

I have heard the counsel for the petitioner through video conferencing. I have also heard the standing counsel for income tax who has taken notice on behalf of respondents. In the nature of the facts and circumstances of the case, this writ petition can be disposed of.

2. Petitioner is an income tax assessee and the issue relates to the assessment year 2009-10. By Ext. P1, the 1<sup>st</sup> respondent disallowed petitioner's claim for deduction under Section 80P of the Income Tax Act and demanded an amount of Rs.12,88,300/- as tax. Appeal filed against Ext.P1 was allowed. However, by Ext.P3, a revised order was passed as Ext.P3. Appeal against Ext.P3 was preferred as Ext.P4 and the same is pending.

3. While the appeal is pending, 1<sup>st</sup> and 2<sup>nd</sup> respondents are initiating recovery proceedings to recover the tax allegedly due.

4. I find force in the contention of the counsel for the petitioner that if the respondents proceed with coercive steps pending consideration of the statutory appeal, the same will be rendered redundant and petitioner will be put to severe difficulties.

In such circumstances, I dispose of the writ petition by directing the third respondent to consider and dispose of Ext.P4 appeal within a period of six months. Till the appeal is disposed of, no proceedings for recovery of the amount due under the assessment order shall be initiated as against the petitioner.

**BECHU KURIAN THOMAS,  
JUDGE**

cs1

## APPENDIX

### PETITIONERS EXTS:

EXHIBIT-P1: A TRUE COPY OF THE ASSESSMENT ORDER DATED 15.12.2016  
AY 2009-10 ISSUED BY THE FIRST RESPONDENT

EXHIBIT P2:. A TRUE COPY OF THE DEMAND NOTICE DATED 15.12.2016  
ISSUED BY THE FIRST RESPONDENT.

EXHIBIT P3. A TRUE COPY OF THE APPELLATE ORDER DATED 29.11.2019  
FOR AY 2009-10 ISSUED BY THE 2ND RESPONDENT

EXHIBIT P4. A TRUE COPY OF THE APPEAL WITH PETITION FILED BEFORE  
THE 3RD RESPONDENT FOR AY 2009-10 DATED 29.01.2020