

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT  
THE HONOURABLE MR.JUSTICE GOPINATH.P.

FRIDAY, THE 15<sup>TH</sup> DAY OF MAY, 2020/25<sup>TH</sup> VAISAKHA, 1942

W.P(C) NO.9926 OF 2020

PETITIONER ::

THE ATTAPPADI SERVICE  
CO-OPERATIVE BANK LTD. NO. P-1197,  
AGALI, MANNARKKAD, REPRESENTED BY ITS  
SECRETARY, M.M. SURESH BABU,  
AGED 55, S/O. LATE AANDY.

BY ADVS. SRI. HARISANKAR V. MENON  
SMT. MEERA V.MENON  
SMT.KRISHNA K

RESPONDENTS :

1. THE INCOME TAX OFFICER,  
WARD 4, AYAKAR BHAVAN,  
PALAKKAD - 678 014.
2. THE COMMISSIONER OF INCOME TAX (APPEALS),  
THRISSUR - 680 021.
3. THE INCOME TAX APPELLATE TRIBUNAL,  
AYAKAR BHAVAN, KAKKANADU, KOCHI - 682 030,  
REPRESENTED BY ITS REGISTRAR.

R1-3 BY GOVERNMENT PLEADER SRI.K.P.HARISH

THIS WRIT PETITION HAVING COME UP FOR ADMISSION ON 15.05.2020,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**Dated this the 15th day of May, 2020**

**JUDGMENT**

This writ petition has been filed praying *inter-alia* for a direction to the 3rd respondent Tribunal to consider and pass orders on an application for stay.

2. The petitioner claimed the benefit of Section 80P of the Income Tax Act. This claim was rejected by the Assessing Officer as well as by the Commissioner (Appeals).

3. The petitioner places reliance on the judgment of a Division Bench of this Court, which is produced as Ext.P5 along with W.P.(C). No.9768/2020. The Division Bench has in similar circumstances, directed the Appellate Tribunal to consider and pass orders on the stay petition within a period of four months from the date of receipt of a copy of the judgment and further directed that any proceedings initiated for recovery of amounts due from the

petitioner shall be kept in abeyance till orders are passed on the stay petition and communicated to the petitioner.

4. In the light of the above, this writ petition is disposed of directing the 3rd respondent, the Income Tax Appellate Tribunal, Kochi Bench, to consider and pass orders on the stay petition marked as Ext.P4 in this writ petition, within a period of four months from the date of receipt of a copy of this judgment. Till orders are so passed and communicated to the petitioner, steps (if any) initiated by the Income Tax Department for recovery of amounts due under the assessment order, shall be kept in abeyance.

With these directions, this writ petition is disposed of.

**GOPINATH.P, JUDGE**

pm

APPENDIX

PETITIONERS EXTS:

EXT. P1. COPY OF ASSESSMENT ORDER ISSUED BY THE 1<sup>ST</sup> RESPONDENT FOR THE YEAR 2017-18 DATED 24-12-2019.

EXT. P2. COPY OF APPELLATE ORDER ISSUED BY THE 2<sup>ND</sup> RESPONDENT FOR THE YEAR 2017-18 DATED 03-03-2020.

EXT. P3. COPY OF THE APPEAL FILED BEFORE THE 3<sup>RD</sup> RESPONDENT DATED 19-03-2020.

EXT. P4. COPY OF PETITION FOR STAY FILED BEFORE THE 3<sup>RD</sup> RESPONDENT DATED 19-03-2020.

EXT. P5. COPY OF JUDGMENT IN W.P.(C)-TMP - 36/2020 OF THE HON'BLE HIGH COURT OF KERALA DATED 11-04-2020.