

**IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR.JUSTICE N.NAGARESH  
THURSDAY, THE 23RD DAY OF APRIL 2020 / 3RD VAISAKHA, 1942  
WP(C) TMP NO. 117 OF 2020**

**Petitioner :-**

The Makkaraparamba Service Co-operative Bank Limited. No. P 576, Makkaraparamba P.O., Malappuram District. Pin: 676507, represented by its Secretary.

By  
Adv. Sri. O.D. Sivadas

**Respondents:**

1. The Commissioner of Income Tax (Appeals), Ayakar Bhavan, Kozhikode-Pin 673 001
2. The Principal Commissioner of Income Tax, Ayakar Bhavan, Tirur, Malappuram District, Pin - 676 001
3. The Income Tax Officer, Ward (4), Tirur, Malappuram District, Pin - 676 001

By  
Standing Counsel Sri.Christopher Abraham, Income Tax

This writ petition having come up for admission on 23.04.2020, the court on the same day delivered the following:

**J U D G M E N T**

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***Dated this the 23<sup>rd</sup> day of April, 2020***

Standing Counsel for Income Tax takes notice for respondents 1 to 3.

2. Petitioner is an income tax assessee. The assessment year in question is 2017-'18. By Ext.P1, the 3<sup>rd</sup> respondent disallowed petitioner's claim for deduction under Section 80-P of the Income Tax Act and demanded ₹2,23,74,755/- as tax. The petitioner filed Ext.P2 appeal contending that reasoning given in Ext.P1 is untenable. Pending the appeal, the 3<sup>rd</sup> respondent initiated coercive proceedings. The 3<sup>rd</sup> respondent issued Ext.P4 demanding 20% of the disputed tax as a condition to stay further proceedings.

3. Heard learned counsel for the petitioner and learned Standing Counsel for Income Tax.

4. If the respondents proceed with coercive steps pending consideration of statutory appeal, the statutory remedy available to the petitioner will be negated and the petitioner is likely to be put to difficulties.

In the circumstances, the writ petition is disposed of directing the respondents not to proceed with coercive steps against the petitioner pending disposal of Ext.P2 appeal. Ext.P2 appeal shall be considered and disposed of by the 1<sup>st</sup> respondent within a period of six months, without insisting on payment of 20% of the demanded tax.

**N. NAGARESH, JUDGE**

aks/23.04.2020

**Appendix**

**Petitioner's Exhibits:**

- Ext. P1-** True copy of the assessment order dated 16.12.2019 issued by the 3<sup>rd</sup> respondent for the Assessment year 2017-18.
- Ext. P2 -** True copy of the appeal dated 14.01.2020 filed by the petitioner before the 1<sup>st</sup> respondent for the assessment year 2017-18.
- Ext. P3 –** True copy of the application dated 18.01.2020 or stay filed by the petitioner before the 3<sup>rd</sup> respondent for staying order for the assessment year 2017-18.
- Ext. P4-** True copy of the proceeding dated 11.02.2020 issued by the 3<sup>rd</sup> respondent with respect to the assessment year 2017-18
- Ext. P5 -** True copy of the review petition dated 14.02.2020 filed by the petitioner before the 2<sup>nd</sup> respondent with respect to the assessment year 2017-18
- Ext. P6-** True copy of the proceeding dated 19.03.2020 issued by the 2<sup>nd</sup> respondent with respect to the assessment year 2017-18.