

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BECHU KURIAN THOMAS

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

W.P(C) TMP NO.176 OF 2020

PETITIONER:

MELATTUR SERVICE CO-OPERATIVE BANK LTD NO.R F 1183,
MELATTUR.P.O.,
MALAPPURAM DISTRICT
REPRESENTED BY ITS SECRETARY.

BY ADV. SRI. O.D.SIVADAS

RESPONDENT/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 SRI.K.P.HARISH, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) TMP 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, I deem it fit that this writ petition be disposed of.

2. Petitioner is an income tax assessee and the issue relates to the assessment year 2017-18. By Ext. P1, the 1st respondent disallowed petitioner's claim for deduction under Section 80P of the Income Tax Act and demanded an amount of Rs.2,13,93,647/- as tax.

3. Challenging the said assessment, petitioner has preferred Ext. P2 appeal contending that the reason for disallowing petitioner's claim for deduction under section 80P is not tenable. Ext.P3 stay petition was also filed which resulted in Ext.P4 order directing deposit of 20% of the tax as a condition for grant of stay. A review petition filed was also dismissed as Ext.P6.

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. Considering the nature of contentions put forth in the appeal, it is appropriate that the same be directed to be disposed of.

In such circumstances, I dispose of the writ petition by directing the first respondent to consider and dispose of Ext.P2 appeal within a period of 6 months. The order directing deposit of 20% for the grant of stay under Ext.P6 shall not be implemented. The appeal shall be disposed of and no recovery shall be initiated till the disposal of the appeal.

**BECHU KURIAN THOMAS,
JUDGE**

csl

APPENDIX

PETITIONER'S/S' EXHIBITS:

- EXT. P1- . TRUE COPY OF THE ASSESSMENT ORDER DATED 20.12.2019 ISSUED BY THE 3RD RESPONDENT FOR THE ASSESSMENT YEAR 2017-18.
- EXT. P2 - TRUE COPY OF THE APPEAL DATED 11.01.2020 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT FOR THE ASSESSMENT YEAR 2017-18.
- EXT. P3 - TRUE COPY OF THE APPLICATION DATED 12.01.2020 FOR STAY FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT FOR STAYING ORDER FOR THE ASSESSMENT YEAR 2017-18.
- EXT. P4- TRUE COPY OF THE PROCEEDING DATED 11.02.2020 ISSUED BY THE 3RD RESPONDENT WITH RESPECT TO THE ASSESSMENT YEAR 2017-18
- EXT.P5- TRUE COPY OF THE REVIEW PETITION DATED 15.02.2020 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT WITH RESPECT TO THE ASSESSMENT YEAR 2017-18
- EXT. P6- TRUE COPY OF THE PROCEEDING DATED 17.03.2020 ISSUED BY THE 2ND RESPONDENT WITH RESPECT TO THE ASSESSMENT YEAR 2017-18.

RESPONDENT'S/S' EXHIBITS:

NIL

/TRUE COPY/

VPS

PS TO JUDGE