

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) TMP NO.202 OF 2020

PETITIONER:

THE VALANCHERY SERVICE  
CO-OPERATIVE BANK LTD. NO. M728,  
VALANCHERY,  
MALAPPURAM - 676 552, REPRESENTED BY ITS  
SECRETARY, V. SASIKUMAR.

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

RESPONDENT/RESPONDENTS:

1. THE INCOME TAX OFFICER,  
WARD 1 & TPS,  
TARIFF BAZAAR,  
TOWN HALL ROAD,  
TIRUR - 676 101.

2. THE INCOME TAX OFFICER (TECH)  
FOR THE PRINCIPAL COMMISSIONER OF INCOME TAX,  
AAYKAR BHAVAN, NORTH BLOCK,  
MANNANCHIRA, KOZHIKODE - 673 001.

3. THE COMMISSIONER OF INCOME TAX (APPEALS),  
AAYKAR BHAVAN, NORTH BLOCK,  
MANNANCHIRA, KOZHIKODE - 673 001.

BY SRI.K.P.HARISH, GOVT. PLEADER  
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 2017-18. 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.82,25,653/- 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. While the appeal is pending, the 1<sup>st</sup> respondent is initiating recovery proceedings to recover the tax allegedly due. While so, Ext. P3 has been issued directing deposit of 20% of the disputed tax as a condition for stay of further proceedings.

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 especially in the light of the nature of contentions taken up in the appeal.

In such circumstances, I direct the 3<sup>rd</sup> respondent to consider and dispose of Ext.P2 appeal within a period of six months without insisting upon deposit of any portion of the disputed tax. No recovery proceedings shall be initiated for recovering the tax demanded till the disposal of such appeal.

**BECHU KURIAN THOMAS,  
JUDGE**

csl

## **APPENDIX**

### **PETITIONERS EXTS:**

**EXT. P1. COPY OF ASSESSMENT ORDER ISSUED BY THE 1<sup>ST</sup>  
RESPONDENT FOR THE YEAR 2017-18. 19-12-2019**

**EXT. P2. COPY OF THE APPEAL FILED BEFORE THE 3<sup>RD</sup>  
RESPONDENT DATED 06-01-2020**

**EXT. P3. COPY OF ORDER ISSUED BY THE 2<sup>ND</sup> RESPONDENT.  
13-03-2020**

**EXT. P4. COPY OF RECEIPT ISSUED BY THE STATE BANK OF  
INDIA, VALANCHERY. 31-03-2020**

**EXT. P5. COPY OF LETTER SUBMITTED BY THE PETITIONER  
BEFORE THE 2<sup>ND</sup> RESPONDENT. 03-04-2020**

**EXT. P6. COPY OF JUDGMENT OF THIS HON'BLE COURT IN W.P.  
(C) NO. 3525/2020. 10-02-2020**

**EXT. P6(A). COPY OF JUDGMENT OF THIS HON'BLE COURT  
IN W.P. (C) NO. 5027/2020. 25-02-2020**

**EXT. P6(B). COPY OF JUDGMENT OF THIS HON'BLE COURT  
IN W.P. (C) NO. 9162/2020. 23-03-2020**