

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 30TH DAY OF APRIL, 2020 /10TH VAISAKHA, 1942

W.P.(C).TMP No.252 OF 2020

PETITIONER:

CHEMMARUTHY SERVICE CO-OPERATIVE BANK LTD. NO.T 328,
REPRESENTED BY ITS SECRETARY, PANAYARA P.O,
VARKALA, THIRUVANANTHAPURAM DISTRICT-695 145.

BY ADVS T.R.HARIKUMAR
& SRI ARJUN RAGHAVAN

RESPONDENTS:-

1.THE INCOME TAX OFFICER, WARD-2 (5),
OFFICE OF THE INCOME TAX OFFICER,
AAYAKAR BHAVAN, KOWDIAR P.O,
THIRUVANANTHAPURAM DISTRICT-695 003.

2.THE COMMISSIONER OF INCOME TAX (APPEALS)
AAYAKAR BHAVAN, KOWDIAR, THIRUVANANTHAPURAM-695 003.

3.THE KERALA STATE CO-OPERATIVE BANK
(FORMERLY KNOWN AS THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE
BANK),THIRUVANANTHAPURAM DISTRICT OFFICE, EAST FORT,
THIRUVANANTHAPURAM-PIN-695 001,
REPRESENTED BY ITS GENERAL MANAGER-IN-CHARGE.

BY SRI. SRI.JOSE JOSEPH, SC

THIS WRIT PETITION (CIVIL) TMP HAVING COME UP FOR ADMISSION ON
30/04/2020, 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 learned Standing Counsel for Income Tax who has taken notice on behalf of respondents. In 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 2017-2018. 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.1,10,32,515/- as tax and interest.

3. Challenging the said assessment, petitioner has preferred Ext.P3 appeal contending that the reason for disallowing petitioner's claim for deduction under Section 80P is not tenable. While the appeal is pending, the respondents have initiated 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 respondents not to proceed with coercive steps against the petitioner pending disposal of Ext.P3 appeal. I also direct the 2nd respondent to consider and dispose of Ext.P3 appeal within a period of 6 months without insisting on payment of the tax demanded.

**BECHU KURIAN THOMAS
JUDGE**

APPENDIX

PETITIONER'S EXHIBITS :-

Exhibit-P1 A true copy of the assessment order for the year 2017-2018 dated 18-12-2019.

Exhibit-P2 A true copy of the notice issued under Section 156 of the Income Tax Act dated 18-12-2019.

Exhibit-P3 A true copy of the online appeal dated 21-02-2020, filed against Ext-P1 assessment order, before the 2nd respondent.

Exhibit-P4 A true copy of the stay petition filed by the petitioner in Ext-P3 appeal dated 10-03-2020.

Exhibit-P5 A true copy of the judgment dated 19-07-2019 in W.A No.1639 of 2019.

Exhibit-P6 A true copy of the judgment dated 17-02-2020 in WP(C) No.4433 of 2020.