

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 5TH DAY OF MAY, 2020/15TH VAISAKHA, 1942

W.P(C) TMP. NO.267 OF 2020

PETITIONER :

MYLOM RURAL CO-OPERATIVE SOCIETY LTD.NO. Q 1429,
MYLOM POST INCHAKKADU, KALAYAPURAM,
KOTTARAKKARA, KOLLAM DISTRICT.
REPRESENTED BY ITS SECRETARY.

BY ADVS.M.SASINDRAN
SREEHARI.I.

RESPONDENTS :

1. THE INCOME TAX OFFICER WARD 2,
AAYAKAR BHAVAN, INCOME TAX OFFICE,
NEAR KARBALA JUNCTION, RAILWAY STATION ROAD,
KOLLAM - 691 001.
2. THE COMMISSIONER OF INCOME TAX (APPEALS),
KOLLAM - 691 001

BY SRI.JOSE JOSEPH, SC

THIS WRIT PETITION HAVING COME UP FOR ADMISSION ON
05.05.2020, 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 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.P3, the 1st respondent disallowed petitioner's claim for deduction under Section 80P of the Income Tax Act and demanded an amount of Rs.10,56,683/- as tax.

3. Challenging the said assessment, petitioner has preferred Ext.P5 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.

5. In such circumstances, I dispose of the writ petition by directing the respondents not to proceed with any coercive steps against the petitioner pending disposal of Ext.P5 appeal. I also direct the 2nd respondent to consider and dispose of Ext. P5 appeal within a period of 6 months without insisting on payment of 10% of the tax demanded.

**BECHU KURIAN THOMAS
JUDGE**

vps

APPENDIX

PETITIONER' S EXHIBITS :

- EXHIBIT P1 : A TRUE COPY OF THE CERTIFICATE DATED
15.3.2005 ISSUED BY THE REGISTRAR OF CO-
OPERATIVE SOCIETIES (GENERAL), KOLLAM.
- EXHIBIT P2 : A TRUE COPY OF THE REGISTRATION CERTIFICATE
DATED 8.9.2015 ISSUED BY THE ASSISTANT
REGISTRAR (GENERAL), KOLLAM.
- EXHIBIT P3 : A TRUE COPY OF THE ASSESSMENT ORDER DATED
12.12.2019 FOR THE ASSESSMENT YEARS 2017-
2018.
- EXHIBIT P4 : A TRUE COPY OF THE DEMAND NOTICE DATED
12.12.2019.
- EXHIBIT P5 : A TRUE COPY OF THE APPEAL MEMORANDUM DATED
25.12.2019 FILED BEFORE THE 2ND RESPONDENT.
- EXHIBIT P6 : A TRUE COPY OF THE STAY PETITION FILED BY
THE PETITIONER DATED 24.1.2020.
- EXHIBIT P7 : A TRUE COPY OF THE JUDGMENT DATED 19.7.2019
IN W.A.NO. 1639 OF 2019

RESPONDENTS' EXHIBITS : NIL

// TRUE COPY//

P.S. TO JUDGE