

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 05<sup>TH</sup> DAY OF MAY, 2020/15TH VAISAKHA, 1942

W.P(C) TMP NO.274 OF 2020

PETITIONER

M/S. ELOOR SERVICE CO-OP. BANK LTD.  
NO.E-103, CO-OPERATIVE BANK LTD.  
UDYOGAMANDAL, ERNAKULAM - 683 501  
REPRESENTED BY ITS SECRETARY,  
SMT. M. K. PREMALATHA

BY ADVS.           SRI. V.P NARAYAN,  
                          SMT. NISHA JOHN,  
                          SMT.DIVYA RAVINDRAN AND  
                          SRI.BASKARAKRISHNAN .R

RESPONDENTS

1.    THE INCOME TAX OFFICER,  
      WARD - 1, TPS, KAP COMMERCIAL COMPLEX  
      O/O ADDITIONAL COMMISSIONER OF INCOME TAX  
      ALUVA RANGE, R.S. ROAD,  
      ALUVA - 683 101
  
2.    THE COMMISSIONER OF INCOME TAX (APPEALS) ,  
      28/243, "POORNIMA",  
      NEAR MANORAMA JUNCTION,  
      PANAMPILLY NAGAR,KOCHI - 682 036

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 years 2013-14 and 2017-18. By Exts.P1 and P2, 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.2,36,86,840/- and Rs.3.43,97,528 respectively as tax.

3. Challenging the said assessment, petitioner has preferred Exts.P3 and P4 appeals 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 Exts.P3 and P4 appeals. I also direct the 2<sup>nd</sup> respondent to consider and dispose of Exts.P3 and P4 appeals within a period of 6 months without insisting on payment of 10% of the tax demanded.

**BECHU KURIAN THOMAS  
JUDGE**

vps

APPENDIX

PETITIONERS EXTS:

- EXHIBIT-P1 - TRUE COPY OF ASSESSMENT ORDER DATED 28.03.2016 FOR AY-2013-14 ALONG WITH DEMAND NOTICE PASSED BY THE 1ST RESPONDENT.
- EXHIBIT-P2 - TRUE COPY OF ASSESSMENT ORDER DATED 30.12.2019 FOR AY-2017-18 ALONG WITH DEMAND NOTICE PASSED BY THE 1ST RESPONDENT.
- EXHIBIT-P3- TRUE COPY OF THE MEMORANDUM OF APPEAL DATED 27.04.2016 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2013-14.
- EXHIBIT-P3 (A)- TRUE COPY OF THE STAY PETITION DATED 25.06.2019 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2013-14.
- EXHIBIT-P4 - TRUE COPY OF THE MEMORANDUM OF APPEAL DATED 24.01.2020 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2017-18.
- EXHIBIT-P4 (A)- TRUE COPY OF THE STAY PETITION DATED 13.03.2020 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2017-18.