

## **HC issues order restraining AO from enforcing demand as assessee challenged constitutional validity of Sec. 115BBE**

INCOME TAX : Where assessee-co-operative bank challenged constitutional validity of section 115BBE and also challenged action of Assessing Officer of issuing notice for recovery of demand raised pursuant to assessment under section 143(3) terming same as arbitrary and sought stay of demand, notice was to be issued in matter and meanwhile as an interim relief, order restraining revenue from enforcing demand was to be passed and impugned recovery notice was to be stayed.

Section [115BBE](#) of the Income-tax Act, 1961 - Tax on income referred to in section 68 to section 69D (General) - Assessment year 2017-18 - Assessee-co-operative bank had been saddled with huge tax liability in respect of cash deposited by customers during demonetization period - Assessee challenged constitutional validity of section 115BBE substituted with effect from 1-4-2017, pursuant to which income determined by Assessing Officer under sections 68, 69, 69A, 69B, 69C and 69D shall attract tax rate at 60 per cent along with application surcharge penalty - Petitioner also challenged action of Assessing Officer of issuing notice for recovery of demand raised pursuant to assessment under section 143(3) terming same as arbitrary and sought stay of demand - Whether notice was to be issued in matter and meanwhile as an interim relief, order restraining revenue from enforcing demand was to be passed and impugned recovery notice was to be stayed - Held, yes [Paras 4 and 5] [Partly in favour of assessee]

**Click below link for the judgment:**

<https://www.taxmann.com/research/direct-tax-laws/top-story/101010000000330726/hc-issues-order-restraining-ao-from-enforcing-demand-as-assessee-challenged-constitutional-validity-of-sec-115bbe-caselaws>

*(Source: Taxmann.com)*