**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR**

**TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936**

**WP(C).No.7248 of 2015 (E)**
**----------------------------------**

**PETITIONER:**
**-------------------**

**AJAY VARGHESE GEORGE,VILLA NO.4,**
**STAR ENCLAV,CHEMBOKADAVU ROAD,**
**EDAPPALLY P.O.,KOCHI-682 024.**

**BY ADV. SRI.K.J.ABRAHAM**

**RESPONDENTS:**
**------------------------**

1. **THE COMMERCIAL TAX OFFICER (WC & LT),**
   **O/O DEPUTY COMMISSIONER,CLASS TOWER,**
   **POWER HOUSE ROAD,ERNAKULAM-682 018.**

2. **THE TAHSILDAR (RR),KANAYANNUR TALUK,**
   **ERNAKULAM,KOCHI-682 011.**

**BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**pk**

**WP(C).No.7248 of 2015 (E)**
**-------------------------------------**

**APPENDIX**

**PETITIONER'S EXHIBITS:**
**-----------------------------------**

**EXT.P1:TRUE COPY OF THE MEMORANDUM AND ARTICLE OF ASSOCIATION OF THE COMPANY.**

**EXT.P2:TRUE COPY OF THE FORM NO.1 DEMAND NOTICES.**

**EXT.P3:TRUE COPY OF THE FORM NO.16 SALE NOTICE NO.E6-3154/12(2) DTD.30.1.2015.**

**EXT.P3(a):TRUE COPY OF THE FORM NO.16 SALE NOTICE NO.E6-3154/12(3) DTD.30.1.2015.**

**RESPONDENT'S EXHIBITS: NIL**
**--------------------------------------**

**//TRUE COPY//**

**P.S.TO JUDGE**

**pk**

**A.K.JAYASANKARAN NAMBIAR, J.**

**.................................................**

**W.P.(C) No. 7248 of 2015 (E)**

**...............................................**

Dated this the 10th day of March, 2015

**JUDGMENT**

The challenge in the writ petition is against Exts.P3 and P3(a) notices that have been issued to the petitioner under the provisions of the Kerala Revenue Recovery Act, 1968, [for short, 'KRR Act']proposing to sell properties belonging to him, for recovering amounts that are due from the company of which, he was a director. The revenue recovery proceedings were basically initiated to recover the luxury tax dues under the Kerala Tax On Luxuries Act, 1976 from the company. The challenge in the writ petition is essentially against the steps taken for recovery of the said amounts, by proceeding against the property belonging to the petitioner, who is a director of the said company.

2. I have heard Sri.Abraham K.J., the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that Exts.P3 & P3(a) notices have been issued under the KRR Act for the purposes of realising the luxury tax dues of M/s.Star Homes Guest House, a company incorporated in terms of the Companies Act, 1956. The

petitioner in the writ petition is the managing director of the said company. For the recovery of the luxury tax dues of the company, steps have been taken to proceed against the individual property of the petitioner. It is noticed that, under the Kerala Tax On Luxuries Act, there is no specific provision enabling the respondents to proceed against the properties of a director, for realisation of the dues of a company. In the absence of a specific provision to that effect, akin to S.39 of the Kerala Value Added Tax Act, 2003, the steps taken by the respondents to proceed against the properties of the petitioner, for realisation of the dues of the company cannot be legally sustained. Thus, the writ petition is allowed by quashing Exts.P3 and P3(a) notices that have been issued to the petitioner under the Kerala Revenue Recovery Act.

Sd/
**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

AMV/10/03/