

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 7746 of 2015 (P)

PETITIONER(S):

**CORPORATE HOMES & RESORTS PVT LTD AGED 46 YEARS
VENGARI, KOZHIZKODE TALUK, KOZHIZKODE DISTRICT
REPRESENTED BY ITS DIRECTOR, FEROS V.P.**

**BY ADVS.SRI.JOSEPH SEBASTIAN PURAYIDAM
SRI.K.RADHAKRISHNAN (K)**

RESPONDENT(S):

**1. SUB COLLECTOR
OFFICE OF SUB COLLECTOR, KOZHIKODE
KOZHIZKODE DISTRICT-673 001.**

**2. THE TAHSILDAR
KOZHIKODE TALUK, KOZHIKODE DISTRICT-673 001.**

R BY GOVERNMENT PLEADER, SMT. SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE ASSESSMENT ORDER HAVING NO.BT2-38892/12 DATED 16/1/2013 WITH ANOTHER ORDER DATED 27/12/2012 ALONG WITH THE ORDER DATED 16/1/2013 PASSED BY THE 2ND RESPONDENT
- EXT.P2. TRUE COPY OF THE PETITION FOR RECTIFICATION DATED NIL FILED U/S. 15(1) OF THE KERALA BUILDING ACT, 1975 BY THE PETITIONER BEFORE THE 2ND RESPONDENT
- EXT.P3. TRUE COPY OF THE ORDER DATED 20/09/2014 PASSED IN EXT.P2 RECTIFICATION PETITION BY THE 2ND RESPONDENT
- EXT.P4. TRUE COPY OF THE BASIC TAX RECEIPT ISSUED FROM THE VILLAGE OFFICER, VENGARI TO THE PETITIONER DATED 8/10/2014 EVIDENCING THE RECEIPT OF RS.96,655/- TOWARDS BUILDING TAX, 2014-15.
- EXT.P5. TRUE COPY OF THE APPEAL FILED BY THE PETITIONER AGAINST THE EXT.P1 AND P3 ORDERS BEFORE THE 1ST RESPONDENT DATED 29/10/2014.
- EXT.P6. TRUE COPY OF THE ORDER DATED 15/11/2014 PASSED BY THE 1ST RESPONDENT AS PER THE ORDER NO.D-12788/13/K.DIS.
- EXT.P7. TRUE COPY OF THE RECTIFICATION PETITION FILED BY THE PETITIONER AGAINST EXT.P6 ORDER BEFORE THE 1ST RESPONDENT U/S.15(1) OF THE KERALA BUILDING TAX ACT, 1975 DATED 10/12/2014.
- EXT.P8. TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT DATED 9/2/2015 WITH NO.D-12788/14.
- EXT.P9. TRUE COPY OF THE PETITION FILED FOR CURING THE DEFECTS BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 10/3/2015.
- EXT.P10. TRUE COPY OF THE STAY PETITION DATED 10/3/2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ALONG WITH EXT.P5 APPEAL.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 7746 of 2015

Dated this the 19th day of March, 2015

JUDGMENT

The petitioner is an assessee under the Kerala Building Tax Act. Against Ext.P1 assessment order and Ext.P3 rectified order for the assessment year 2012-2013, the petitioner had preferred Ext.P5 appeal before the 1st respondent. Along with the appeal, the petitioner had also preferred Ext.P10 stay petition. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P1 order.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with the following directions:-

- (i) The 1st respondent shall consider and pass orders on Ext.P10 stay petition within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

(ii) Recovery steps for recovery of amounts confirmed against the petitioner by Ext.P1 assessment order shall be kept in abeyance till orders are passed by the 1st respondent as directed above and communicated to the petitioner.

(iii) The order to be passed by the 1st respondent shall be a reasoned one adverting to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE