IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 8891 of 2015 (J)

PETITIONER(S) :

SHANIL KUMAR.R.,
S/O.LATE RAMANATHAN, PROPRIETOR,
S.K.PACKAGED DRINKING WATER, 5/543, ANAMARI P.O.,
KOLLENGODE, CHITTUR TALUK, PALAKKAD DISTRICT.
RESIDING AT CHANGATHARA KALAM,
ANAMARI P.O., KOLLENGODE, CHITTUR TALUK,
PALAKKAD DISTRICT.

BY ADVS.SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENT(S) :
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1. STATE OF KERALA REPRESENTED BY THE SECRETARY
   TO GOVERNMENT, DEPARTMENT OF REVENUE / TAX,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

2. THE TAHSILDAR,
   CHITTUR, PALAKKAD DISTRICT - 678 101.

3. THE VILLAGE OFFICER,
   KOLLENGODE - 1 VILLAGE, CHITTUR TALUK,
   PALAKKAD DISTRICT - 678 001.

BY GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

Msd.

WP(C).No. 8891 of 2015 (J)
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APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1 : **TRUE COPY OF THE ACKNOWLEDGEMENT 16-12-2014 ISSUED BY THE DEPARTMENT OF INDUSTRIES, GOVERNMENT OF KERALA.**

EXT P2 : **TRUE COPY OF THE ASSESSMENT ORDER ISSUED ON 18-12-2015 BY THE RESPONDENT NO.2.**

EXT P3 : **TRUE COPY OF THE NOTICE OF DEMAND DATED 18-02-2015 ISSUED BY THE RESPONDENT NO.2.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.8891 of 2015

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Dated this the 2nd day of June, 2015

JUDGMENT

The petitioner is the Proprietor of the drinking water unit challenges the assessment order under Building Tax Act (for short, the "Act"). The petitioner submits that he is entitled for exemption under Section 3(1)(b) of the Act, which stated as follows:

> "buildings used principally for religious, charitable or educational purposes or as factories or workshops".

2. The petitioner's case is that the drinking water unit is housed in a factory building and he has constructed the factory building with the permission of the local authority.

3. It appears that the assessing authority disputed the right of the petitioner and issued the assessment order.

4. In terms of Section 3(2) of the Act that if any question arises as to whether a building falls within the definition of factory or not, the question has to be decided by the Government. In the light of the assessment order and in the nature of the dispute

raised by the petitioner, I am of the view; the petitioner has to approach the Government. Therefore, this writ petition is disposed of with the following directions:

1. The petitioner shall approach the Government in terms of Section 3(2) of the Act within one month from today.
2. The petitioner shall produce all documents to substantiate his claim for exemption.
3. Thereafter, the Government shall take a decision on the request made by the petitioner within three months after affording an opportunity of hearing to the petitioner.
4. Till a decision is taken in the matter, no action shall be taken against the petitioner pursuant to the assessment order.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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