

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 8940 of 2015 (N)

PETITIONER(S):

**AHAMMED SHERIF, AGED 42 YEARS,
S/O.MUHAMMAD HAJI, MANAGING DIRECTOR,
MALABAR VENEERS (P) LTD, KUNIYA,
KAPPNAKAL, PERIYA PO, KASARAGOD.**

**BY ADVS.SRI.M.RAMESH CHANDER (SR.)
SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
REVENUE (SPECIAL CELL) DEPARTMENT,
THIRUVANANTHAPURAM 695001.**
- 2. THE THASILDAR,
HOSDURG, KASARAGODE DISTRICT 671315.**
- 3. THE VILLAGE OFFICER.
PERIYA 671316, KASARAGOD.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: PHOTOSTAT COPY OF THE LICENCE ISSUED BY THE SECRETARY DATED
15.05.2014**
- P2: PHOTOSTAT COPY OF THE REGISTRATION CERTIFICATE ISSUED UNDER THE
FACTORIES ACT DATED 17.03.2013**
- P3: PHOTOSTAT COPY OF THE EXTENSION OF REGISTRATION CERTIFICATE
22.12.2014**
- P4: PHOTOSTAT COPY OF THE ORDER DATED 19.09.2014 REJECTING THE
PETITIONERS CLAIM FOR EXEMPTION**
- P5: TRUE COPY OF THE RECOVERY NOTICE DATED 04.03.2015**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 8940 of 2015

Dated this the 4th day of August, 2015

J U D G M E N T

The petitioner claiming exemption under the Building Tax Act had approached the Government. Ext.P4 is the order issued by the Government rejecting petitioner's claim.

2. The petitioner's case is that, the building in question is a factory building wherein petitioner runs a plywood industry. Therefore the building is entitled for exemption in terms of Section 3(1)(b) of the Building Tax Act.

3. The application was rejected stating the reason that, the petitioner failed to produce any documents to show that it is being used as a factory. Particularly, it has been pointed out that the petitioner failed to produce licence issued by the Factories and Boilers Department. It is also noted that the factory is not following the provisions of Section 2(m) of the Factories Act.

4. Petitioner has produced Exts.P1 to P3 before this Court to substantiate his claim that the building in question is a factory. It is apparent that the petitioner has not produced these documents before the Government.

5. In that view of the matter, this Court is of the view that an opportunity should be given to the petitioner. Therefore, Ext.P4 shall be reconsidered. Petitioner shall produce all the documents relied by him including Exts.P1 to P3 and also furnish details to show that the factory is following the provisions of Section 2(m) of Factories Act. It shall be done, within one month from the date of receipt of a copy of this judgment. Thereafter after hearing the petitioner appropriate decision shall be taken within a further period of two months.

Accordingly, the impugned order is set aside and this writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.