IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 9130 of 2015 (M)

PETITIONER :

P.O.JOHN,S/O.OUSEPH,
PERUMALIL HOUSE, PEROOR.P.O.,
KOTTAYAM DISTRICT, PIN-686 637

BY ADV. SMT.A.SREEKALA

RESPONDENT(S):
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1. THE DISTRICT COLLECTOR,
   KOTTAYAM-686 001

2. THE REVENUE DIVISIONAL OFFICER,
   MINI CIVIL STATION, KOTTAYAM DISTRICT-686 001

3. THE TAHASILDAR, MINI CIVIL STATION,
   KOTTAYAM-686 001

4. THE VILLAGE OFFICER, PEROOR, PEROOR.P.O.,
   KOTTAYAM-686 637

R1 TO R4 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

sts

WP(C).NO.9130/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE BUILDING PERMIT DATED 28/03/2001

P2 COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT DATED 21/01/2004

P3 COPY OF THE DEMAND NOTICE DATED 21/01/2004

P4 COPY OF THE PLAN SHOWING THE ACTUAL MEASUREMENT OF THE BUILDING OF THE PETITIONER.

P5 COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE OF THE 3RD RESPONDENT DATED 18/08/2014

P6 COPY OF THE REPLY GIVEN BY THE 3RD RESPONDENT DATED 19/09/2014

P7 COPY OF THE APPEAL FILED BY THE PETITIONER TO THE 2ND RESPONDENT.

P8 COPY OF THE ORDER DISMISSING THE APPEAL BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.9130 of 2015

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Dated this the 23rd day of March, 2015

J U D G M E N T

The limited prayer of the petitioner in the writ petition is for a direction to the 2nd respondent to consider the appeal preferred by the petitioner against the demand of luxury tax for the assessment year 2014-2015. The facts in the writ petition would disclose that, the building tax assessment of the building of the petitioner had been completed in 2004 and, simultaneously, the building of the petitioner was also assessed to luxury tax. In Ext.P7 appeal, that was preferred by the petitioner, what was impugned was the order assessing the building of the petitioner to building tax, as also those orders that assessed the petitioner's building to luxury tax for the assessment years from 2004-2005 onwards. By Ext.P8 communication, the 2nd respondent informed the petitioner that the appeal preferred by the petitioner, against the assessments to building tax and luxury tax, could not be entertained because they were barred by limitation. While the view taken by the 2nd respondent in the said communication is legally correct, in respect of the assessment to building tax as also the assessment to luxury tax for the assessment years up to 2013-

2014, I am of the view that, inasmuch as the petitioner has paid luxury tax even for the assessment year 2014-2015, the 2nd respondent can treat Ext.P7 appeal as a valid one for the purposes of determining the petitioner's liability to luxury tax for the assessment year 2014-2015. I therefore sustain Ext.P8 communication to the extent it covers the building tax assessment and the luxury tax assessment of the petitioner's building up to the year 2013-2014, and quash the same to the extent it deals with the appeal preferred by the petitioner against the luxury tax assessment for the assessment year 2014-2015. The 2nd respondent shall consider Ext.P7 appeal preferred by the petitioner, by treating it as one filed against the demand of luxury tax for the assessment year 2014-2015, and pass fresh orders in the matter after looking into the contention of the petitioner that the plinth area of the building is such as would not attract the levy of luxury tax. The 2nd respondent shall pass fresh orders as directed within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner and after causing a measurement of the plinth area of the building to be done by the 3rd and the 4th respondents. The 2nd respondent shall also cause a notice to be served on the petitioner, intimating him of the date of inspection of the property by the 3rd and the 4th respondent, so that the petitioner can also be available at the site at the time of measurement of the plinth area. The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, to the 2nd respondent for further steps.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns