

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 11342 of 2015 (P)

PETITIONER(S) :

**MATHEW JOSE, AGED 44 YEARS,
S/O.JOSEPH, RESIDING AT KOLADIYIL HOUSE,
ATHIRAMPUZHA P.O, KOTTAYAM DISTRICT.**

BY ADV. SRI.P.C.HARIDAS

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO THE DEPARTMENT OF
REVENUE, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.**
- 2. REVENUE DIVISIONAL OFFICER,
PALA- 686 575.**
- 3. TAHSILDAR,
MEENACHIL, PALA- 686 575.**
- 4. DEPUTY TAHSILDAR,
MEENACHIL TALUK OFFICE, PALA- 686 575.**
- 5. VILLAGE OFFICER,
PULIYANNOOR, PALA- 686 575.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF ORDER DATED 03.01.2013 OF THE CHIEF TOWN PLANNER.
- EXT.P2: TRUE COPY OF THE NO OBJECTION CERTIFICATE DATED 06.02.2013 OF THE ASSISTANT DIVISIONAL OFFICER, FIRE & RESCUE SERVICES,KOTTAYAM HAS GIVEN.
- EXT.P3: TRUE COPY BUILDING PERMIT.
- EXT.P3(A): TRUE COPY OF THE PLAN.
- EXT.P4: TRUE COPY OF REGULARIZATION CUM OCCUPANCY CERTIFICATE DATED 26.07.2013.
- EXT.P5: TRUE COPY OF THE LICENSE DATED 04.05.2014 OF THE PALA MUNICIPALITY.
- EXT.P6: TRUE COPY OF THE ACKNOWLEDGMENT FOR ALLOCATION OF MEMORANDUM NUMBER BY INDUSTRIES DEPARTMENT.
- EXT.P7: CONSENT TO OPERATE FROM PCB.
- EXT.P8: TRUE COPY OF THE PROCEEDINGS DATED 23.08.2014 OF THE ELECTRICAL INSPECTOR OF KOTTAYAM.
- EXT.P9: TRUE COPY OF THE NOTICE OF HEARING ISSUED BY THE 3RD RESPONDENT.
- EXT.P10: TRUE COPY OF THE ASSESSMENT ORDER DATED 19.01.2015.
- EXT.P11: TRUE COPY OF THE REPRESENTATION DATED 22.01.2015 OF THE PETITIONER.
- EXT.P12: TRUE COPY OF THE REPLY DATED 11.02.2015 OF THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 11342 of 2015 (P)

.....
Dated this the 10th day of April, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P10 order of assessment in relation to the petitioner's building under the Kerala Building Tax Act, 1976, [for short, the Act]. Ext.P10 order passed by the 3rd respondent is challenged on the ground that, the said order does not contain any reasons for the assessment and does not disclose the basis of the assessment on the building of the petitioner.

2. It is the contention of the petitioner in the writ petition that, he had produced materials in the form of Exts.P1 to P8 before the 3rd respondent to substantiate his contention that the building in question was being used as a workshop, and therefore, would qualify for exemption from the levy of building tax under Section 3 of the Act. As already noted in the writ petition, the petitioner challenges Ext.P10 on the ground that it is vitiated by a patent non application of mind.
3. I have heard Sri.P.C.Haridas, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.
4. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I find that, although, the petitioner avers that he had produced Exts.P1 to P8 before the 3rd respondent, Ext.P10 order passed by the 3rd respondent does not reflect

a consideration of the said document. The said order does not even reveal the basis of the assesment, as also a consideration of the claim of exemption that is stated to have been made before him by the petitioner. In that view of the matter, Ext.P10 order is vitiated by a patent non application of mind. I therefore, quash Ext.P10 and direct the 3rd respondent to reconsider the matter and pass fresh orders of assesment in relation to the building of the petitioner, after taking note of the documents produced by the petitioner and, in particular, the documents produced by the petitioner to substantiate his claim with regard to exemption under the Act. The 3rd respondent shall pass fresh orders in the matter, after hearing the petitioner, within a period of two months from the date of receipt of a copy of this judgment.

To enable the 3rd respondent to do so, I direct the petitioner to appear before the 3rd respondent at his office at 11a.m. on 24.04.2015 with all the relevant materials to substantiate his contentions on merits.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/10/04/