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. 12398 of 2015 (Y)

PETITIONER(S):

DEVASSYKUTTY,,
PALLICKAL HOUSE, MEKKALADY,
KALADY VILLAGE, ERNAKULAM DISTRICT.

BY ADVS.SRI.SHAHUL HAMEED MOOPPAN
SRI.K.M.VARGHESE

RESPONDENT(S):

1.TAHSILDAR, ALUVA
ERNAKULAM DISTRICT 683 101.

2.VILLAGE OFFICER,
KALADY VILLAGE, ERNAKULAM DISTRICT 683 574.

R 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:

W.P.(C).NO.12398/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE RECEIPT DATED 25.2.2014 ISSUED TO THE PETITIONER FROM KALADY GRAMA PANCHAYAT.

EXT.P2: COPY OF THE NOTICE DATED 27.11.2014 ISSUED BY THE RESPONDENT NO.1.

EXT.P3: COPY OF THE CERTIFICATE DATED 9.12.2014 ISSUED BY KALADY GRAMA PANCHAYAT.

EXT.P4: COPY OF THE ORDER OF ASSESSMENT DATED 25.2.2015 ISUSED BY RESPONDENT NO.1.

EXT.P5: COPY OF THE DEMAND NOTICE DATED 25.2.2015 ISSUED BY THE RESPONDENT NO.1.

EXT.P6: COPY OF THE RECEIPT DATED 12.3.2015 ISSUED BY THE RESPONDENT NO.2.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.12398 OF 2015 (Y)

Dated this the 10th day of April, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P4 order of assessment under the Kerala Building Tax Act in relation to the building put up by the petitioner. The specific contention of the petitioner in the writ petition is that the construction of the building was completed prior to 1.4.2014, and, hence, the enhanced rate of tax applicable with effect from 1.4.2014 could not have been made applicable to the building of the petitioner that was assessed.

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

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that in Ext.P4 order of assessment, there is no reference to the actual date of completion of construction of the building. It is the specific case of counsel for the petitioner that he had produced the relevant documents including Ext.P3 before the respondents to contend that the construction of the building was completed prior to 1.4.2014. If that be the case, then the 1st respondent assessing authority ought to have entered a finding with regard to the date of completion of construction of the building prior to finalising the assessment in respect of the building. This was essential because, with effect from 1.4.2014, the rate of tax had changed, and it was necessary for the 1st respondent to indicate to the assessee the rate of tax that was applied in his case. Inasmuch as Ext.P4 does not consider any of these aspects, I quash Ext.P4, and consequently, Ext.P5 notice of demand, and direct the 1st respondent assessing authority to pass fresh orders of assessment in relation to the building of the petitioner, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. I make it clear that amounts, if any, paid by the petitioner pursuant to Ext.P4 order shall be adjusted against the amounts found due as payable from the petitioner pursuant to the directions in this judgment.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp