IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(C).No. 16714 of 2015 (L)

PETITIONER :

MANAYATH SARASWATHI, W/O.MANAYATH RAGHAVAN,
RETIRED TEACHER,AGED 79 YEARS,
RESIDING AT INDIRALAYAM, NADAKKUTHAZHA AMSOM
PUTHUR DESOM, VATAKARA TALUK,
KOZHIKODE DISTRICT, PIN -673 104

BY ADVS.SRI.U.K.DEVIDAS
SRI.K.K.ANILRAJ

RESPONDENT(S):
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1. **STATE OF KERALA,**
   REPRESENTED BY SECRETARY, REVENUE DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM -696 001

2. **DISTRICT COLLECTOR,**
   CIVIL STATION, CIVIL STATION P.O, KOZHIKODE- 673 020

3. **THE TAHSILDAR,**
   TALUK OFFICE, VATAKARA, PIN -673 101

4. **DEPUTY TAHSILDAR,**
   REVENUE RECOVERY OFFICE, CIVIL STATION,
   VATAKARA- 673 020

5. **VILLAGE OFFICER, NADAKKUTHAZHA,**
   VILLAGE OFFICE COMPLEX, VATAKARA.

6. **THE SECRETARY,**
   VADAKARA MUNICIPALITY, VADAKARA -673 101

R1 TO R5 BY SR GOVERNMENT PLEADER SMT. SHOBA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 16714 of 2015 (L)
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APPENDIX

PETITIONER(S)' EXHIBITS

P1: **TRUE COPY OF THE NOTICE DATED 24.02.1967 ISSUED BY THE MUNICIPAL COMMISSIONER, VADAKARA.**

P2: **TRUE COPY OF THE TAX RECEIPT DATED 23.10.1969**

P2(A): **TRUE COPY OF THE TAX RECEIPTS DATED 19.02.1974**

P2(B): **TRUE COPY OF THE TAX RECEIPTS DATED 13.02.1992**

P2(C): **TRUE COPY OF THE TAX RECEIPTS DATED 02.02.1993**

P3: **TRUE COPY OF THE BUILDING PERMIT DATED 30.01.2003**

P4: **TRUE COPY OF THE OCCUPANCY CERTIFICATE DATED 06.12.2011**

P5: **TRUE COPY OF THE ORDER DATED 12.12.2012**

P6: **TRUE COPY OF THE ORDER DATED 27.03.2013**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.16714 of 2015

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Dated this the 12th day of August, 2015

JUDGMENT

The petitioner, challenging assessment to the luxury tax, has approached this Court.

2. The main contention of the petitioner is that for the purpose of assessment of luxury tax, the old construction has to be excluded and only new construction can alone be taken into account for the purpose of luxury tax.

3. It is submitted that new structure is less than the plinth area which is assessable for luxury tax under Section 5A of the Kerala Building Tax Act.

4. The luxury tax is assessed in terms of luxury of an assessee in respect of the building based on the plinth area. This tax is a recurring tax. Therefore, the moment, the construction fall within the ambit of Section 5A by addition or re-construction, the entire building would be reckonable for the purpose of luxury tax.

4. The full bench of this Court in **State of Kerala v. Abdulla [2012(1) KLT 178]** held that the entire building which is

added or reconstructed would also be considered for the purpose of luxury tax. Therefore, there is no merit in this writ petition. Accordingly, it is dismissed.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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