

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

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

WP(C) .No. 24453 of 2015 (F)

PETITIONER(S) :

ALUMNI SOCIETY OF AOTS KERALA,  
NIPPON KERALA CENTER, THOTTAKKATTUKARA JUNCTION  
ALUVA - 683 108, REPRESENTED BY ITS SECRETARY  
SRI.SURAJ MOOTHEDATH.

BY ADVS.SRI.BECHU KURIAN THOMAS  
SRI.PAUL JACOB (P)  
SRI.ENOCH DAVID SIMON JOEL  
SRI.S.SREEDEV  
SRI.RONY JOSE  
SRI.GEORGE A.CHERIAN

RESPONDENT(S) :

1. STATE OF KERALA,  
REPRESENTED BY ITS PRINCIPAL SECRETARY, SECRETARIAT,  
THIRUVANANTHAPURAM - 695 001.
2. KALAMASSERY MUNICIPALITY,  
REPRESENTED BY ITS SECRETARY,  
CHANGABUZHA NAGAR P.O.,  
ERNAKULAM - 682 033.

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA  
BY SRI.M.K.ABOOBACKER, SC, KALAMASSERY MUNICIPALITY.

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

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

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- EXT. P1 - TRUE COPY OF THE EXEMPTION ORDER DT. 30.11.2007.
- EXT. P2 - TRUE COPY OF THE APPROVAL DT. 27.12.2010 GRANTED UNDER SECTION 80G (5) OF INCOME TAX ACT.
- EXT. P3 - TRUE COPY OF THE ORDER GRANTING LEASE DT. 18.11.2006.
- EXT. P4 - TRUE COPY OF THE ASSESSMENT ORDER DT. 18.7.2011.
- EXT. P5 - TRUE COPY OF THE APPLICATION FOR EXEMPTION DT. 23.4.2013 SUBMITTED BY PETITIONER.
- EXT. P6 - TRUE COPY OF THE REFERENCE LETTER ISSUED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT DT. 01.8.2013.
- EXT. P7 - TRUE COPY OF THE NTICE DT. 02.3.2015.
- EXT. P8 - TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DT. 27.12.2014.
- EXT. P9 - TRUE COPY OF THE OPINION DT. 28.4.2014.

RESPONDENT(S) ' EXHIBITS :

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NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

**A.V.RAMAKRISHNA PILLAI, J.**

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**W.P.(C)No.24453 of 2015**  
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**Dated this the 12<sup>th</sup> day of August, 2015.**

**J U D G M E N T**

The petitioner prays for a direction to stay the operation of Ext.P4 and all proceedings pursuant thereto.

2. The petitioner is a charitable institution conducting a non profit educational institution by the name Nippon Kerala Centre. The institution is engaged in assisting and training small scale industries of the State of Kerala to improve its productivity, efficiency, quality etc. The institution is a charitable institution under the Income Tax Act. By Ext.P3, the State of Kerala has granted the petitioner one lacre of land to set up the institution in the KINFRA High-Tech City next to NUALS in Kalamassery at a concessional rate of Rs.1/- per year. According to the petitioner, a building was constructed in the said plot and was assessed to property tax vide Ext.P4. The petitioner

claimed exemption under Section 235 of the Kerala Municipalities Act 1994. The request was conceded by the 2<sup>nd</sup> respondent and referred to the 1<sup>st</sup> respondent. Vide Ext.P8 order, the petitioner's claim for exemption was rejected by the 1<sup>st</sup> respondent by a non speaking order and without affording the petitioner an opportunity of being heard. It is with this backdrop, the petitioner has approached this Court.

3. I have heard the learned counsel for the petitioner, the learned Government Pleader and the learned Standing counsel for the respondent Municipality.

4. The learned counsel for the petitioner invited my attention to Ext.P8 and submits that it is a non speaking order. Therefore, the petitioner is only seeking a direction to the respondent for a re-consideration of the petitioner's claim for exemption of tax.

Considering the nature of the submissions made and the relief sought in this petition, this writ petition is disposed

of quashing Ext.P8 and directing the 1<sup>st</sup> respondent to consider and pass orders, after affording the petitioner an opportunity of being heard within a period of 2 months of receipt of copy of this judgment.

Sd/-  
**A.V.RAMAKRISHNA PILLAI,**  
**Judge.**

ami/

//True copy//

P.A. to Judge