IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

W.P.(C).No. 27380 of 2015 (V)

PETITIONER :

SANTHAKUMARAN, AGED 68 YEARS,
S/O DHARMANDI,
R.R. MODERN RICE MILL,
OOTTARA,
VADAVANNUR,
PALAKKAD DISTRICT.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS :

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1. THE TAHSILDAR, CHITTUR
(ASSESSING AUTHORITY UNDER THE KERALA BUILDING TAX ACT)
OFFICE OF THE TAHSILDAR,
CHITTUR
PALAKKAD DISTRICT-678 001

2. THE VILLAGE OFFICER,
VADAVANNUR VILLAGE,
CHITTUR TALUK
PALAKKAD DISTRICT-678 001

R BY GOVERNMENT PLEADER : SRI. LIJU.V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bpr

W.P.(C).No. 27380 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 A TRUE COPY OF THE ACKNOLEDGMENT ISSUED BY DEPARTMENT OF INDUSTRIES, KERALA TO PETITIONER DATED 26.07.2008.

EXT.P2 A TRUE COPY OF THE RETURN DATED 02.08.2013 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P3 A TRUE COPY OF THE ORDER OF ASSESSMENT DATED 06.03.2015 ISSUED BY 1ST RESPONDENT TO THE PETITIONER.

EXT.P4 A TRUE COPY OF THE NOTICE OF DEMAND DATED 06.03.2015 ISSUED BY 1ST RESPONDENT THROUGH 2ND RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

bpr

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.27380 OF 2015 (V)

Dated this the 22nd day of September, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P3 order of assessment, whereby, the building belonging to the petitioner has been assessed to building tax without considering the claim for exemption that was put forward by the petitioner along with the return filed under the Kerala Building Tax Act.

2. I have heard Shri. Rajesh Sivaramankutty, the learned counsel appearing for the petitioner and the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that although the petitioner had filed Ext.P2 return clearly indicating therein that it was an SSI unit and requesting for exemption from tax based on the documents produced along with the return, by Ext.P3 order, the first respondent has mechanically proceeded to levy building tax on the total plinth area of the building without referring the matter to the State Government for a consideration of the claim for exemption. As

per the provisions of the Building Tax Act, whenever there is a claim for exemption put forward by an assessee, the first respondent is obliged to refer the issue regarding exemption to the State Government under Section 3(2) of the Kerala Building Tax Act. Inasmuch as the said exercise has not been done in the instant case, I quash Exts.P3 order and P4 demand notice and direct the first respondent to forward Ext.P2 application of the petitioner for exemption, to the State Government within a period of one month from the date of receipt of a copy of this judgment, and await orders of the State Government before passing final orders of assessment in relation to the petitioner's building, under the Kerala Building Tax Act.

The writ petition is disposed of as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

bpr