IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 29025 of 2015 (C)

PETITIONER(S):

RAJAN KURIAN, 50 YEARS, S/O.LATE SRI.A.K.KURIAN,
AAMBAKUZHIYIL, CHENGALAM VILLAGE.

BY ADVS.SRI.SAJEEVAN KURUKKUTTIYULLATHIL
SMT.SARITHA THOMAS

RESPONDENT(S):
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1. **DISTRICT COLLECTOR, COLLECTORATE, KOTTAYAM.**

2. **REVENUE DIVISIONAL OFFICER, MINI CIVIL STATION,**
   THIRUNAKKARA, KOTTAYAM,
   APPELLATE AUTHORITY UNDER THE BUILDING TAX ACT.

3. **THE TAHSILDAR, MINI CIVIL STATION, THIRUNAKKARA, KOTTAYAM,**
   ASSESSING AUTHORITY UNDER BUILDING TAX ACT.

BY GOVERNMENT PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 29025 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF MEMORANDUM OF APPEAL FILED BEFORE THE 2ND RESPONDENT.

EXT.P2: TRUE COPY OF THE RECEIPT DATED 7.02.2014 ISSUED BY THE VILLAGE OFFICER, CHENGALAM.

EXT.P3: TRUE COPY OF THE ORDER DATED 16.04.2015 PASSED BY THE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF THE MEMORANDUM OF REVISION PETITION FILED BEFORE THE 1ST RESPONDENT.

EXT.P5: TRUE COPY OF THE ORDER DATED 4.06.2015 PASSED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.29025 OF 2015 (C)

Dated this the 15th day of October, 2015

J U D G M E N T

The challenge in the writ petition is against Exts.P3 and P5 orders that were passed by the Appellate authority and the Revisional authority rejecting an appeal, and subsequently a revision preferred by the petitioner challenging the assessment to luxury tax under the Kerala Building Tax Act. The grievance of the petitioner against Exts.P3 and P5, in the writ petition, is essentially that the 2nd and 1st respondents respectively, while passing the said orders, have rejected the petitions before them on the ground of limitation, whereas the levy of luxury tax being an yearly levy, the appeal against the said assessment could not have been dismissed on the ground that the building tax assessment in respect of the building had been completed earlier.

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

3. On a consideration of the facts an circumstances of the case as also the submissions made across the bar, I find force in the

contention of counsel for the petitioner that the 2^{nd} and 1^{st} respondents erred in dismissing the appeal and revision filed against the assessment of the petitioner to luxury tax under the Kerala Building Tax, on the ground of limitation. The levy of luxury tax being an yearly levy, it was open to the petitioner to challenge the levy of luxury tax for the assessment year 2014-15 through the appeal that was filed before the 2^{nd} respondent. The 2^{nd} respondent could not have referred to the date of passing of the assessment order pertaining to the levy of building tax, to find that the appeal preferred by the petitioner before him was barred by limitation. Accordingly, I quash Exts.P3 and P5 orders, and direct the 2^{nd} respondent to consider and pass fresh orders in the appeal preferred by the petitioner against the assessment order for the assessment year 2014-15, levying luxury tax on the petitioner. The 2^{nd} respondent shall pass fresh orders, as directed, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/15/10/15