IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 32728 of 2015 (M)

PETITIONER:

RAJEEV JOSEPH,
NEELANKAVIL PARAYIL HOUSE,
NAKSHATRA RESIDENCY,
KIZHAKKUMPATTUKARA, THRISSUR.

BY ADVS.SRI.DEEPU THANKAN
KUM.P.V.JAYALAKSHMY
SMT.G.RANJITA

RESPONDENT:

THE ASSESSMENT AUTHORITY/THAHASILDAR,
THRISSUR - 680 001.

BY GOVERNMENT PLEADER SMT.LILLY.K.T

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 32728 of 2015 (M)

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : TRUE COPY OF THE CERTIFICATE ISSUED BY THE TRICHUR CORPORATION DATED 4.12.2014.

EXT. P2 : TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT DATED 25.8.2014.

EXT. P3 : TRUE COPY OF ORDER OF THE RESPONDENT ON 19.4.2015.

EXT. P4 : TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.NO.20188/2015 DATED 13.7.2015.

EXT. P5 : TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER DATED 3.8.2015.

EXT. P6 : TRUE COPY OF THE ORDER OF THE RESPONDENT DATED 31.8.2015.

EXT. P7 : TRUE COPY OF THE CIRCULAR DATED 1.9.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32728 OF 2015 (M)

Dated this the 28th day of October, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P6 order of assessment passed in relation to a building owned by the petitioner under the Kerala Building Tax Act, 1975. The grievance of the petitioner in the writ petition is essentially that, although against Ext.P3 order of assessment, the petitioner had approached this Court through W.P.(C).No.20188/2015, and this Court, by Ext.P4 judgment, had quashed the said order and permitted the petitioner to raise his objections before the respondent in response to the demand notice issued to him earlier, and further directed the respondent to complete an assessment against the petitioner after adverting to the materials and affording the petitioner an opportunity of being heard, the respondent did not comply with the express directions in Ext.P4 judgment and passed Ext.P6 order of assessment in a mechanical manner. The petitioner contends that Ext.P6 order is vitiated by a patent non-application of mind and therefore ought to be quashed.

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 and circumstances of the case as also the submissions made across the bar, I find that, notwithstanding the specific direction in Ext.P4 judgment, in Ext.P6 order that was passed by the respondent, there is no reference to any material that was produced before the respondent by the petitioner, or any reference to the submissions made by the petitioner before the respondent at a personal hearing that was afforded to him. In Ext.P4 judgment of this Court, the respondent was directed to advert to the materials produced before him, and afford the petitioner an opportunity of hearing. In an assessment order passed pursuant to Ext.P4 judgment, it was incumbent upon the respondent Assessing Authority to give reasons as to why the assessment had to be completed in any particular way against the petitioner. Inasmuch as such an exercise has not been done in Ext.P6 order, I quash Ext.P6 order, and direct the respondent to complete the assessment under the Kerala Building Tax Act, in relation to the petitioner's building afresh within a period of one month from the date of receipt of a copy

of this judgment. The respondent shall afford the petitioner an opportunity of hearing after giving due notice of the said hearing to the petitioner. The order to be passed by the respondent shall be a speaking order giving reasons for the findings in the order. While passing fresh orders, the respondent shall also take note of Ext.P7 Circular and decide whether the same is applicable to the case of the petitioner.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/28/10/15