IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 34833 of 2014 (D)
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PETITIONER(S):
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KOODACHIRE MURALEEDHARAN, AGED 50 YEARS
S/O. KUNHAPPA, BUSINESS, ANDAMKOVVAL
KUNHIMANGALAM AMSOM, DESOM, KANNUR TALUK.

BY ADVS.SRI.GRASHIOUS KURIAKOSE (SR.)
SRI.M.M.ANTO
SRI.GEORGE MATHEWS

RESPONDENT(S):
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1. THE DISTRICT COLLECTOR,
KANNUR-670001.

2. TALUK OFFICER,
KANNUR TALUK, KANNUR-670001.

3. THE VILLAGE OFFICER,
KUNHIMANGALAM VILLAGE, KUNHIMANGALAM-670309.

BY GOVERNMENT PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 34833 of 2014 (D)
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**APPENDIX**

PETITIONER(S)' EXHIBITS
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P1. TRUE COPY OF THE FORM 1 DATED 2-9-1998 ALONG WITH THE PLAN SUBMITTED BY THE 3RD RESPONDENT UNDER THE PROVISIONS OF KERALA BUILDINGS TAX ACT, 1995.

P2. TRUE COPY OF THE ORDER NO. C1-13100/98 FOR ASSESSMENT OF BUILDING TAX.

P3. TRUE COPY OF THE REQUEST DATED 31-7-2013 SUBMITTED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR.

P4. TRUE COPY OF THE COMMUNICATION ISSUED BY THE DISTRICT COLLECTOR TO THE PETITIONER.

P5. TRUE COPY OF THE POSTAL CARD.

P6. TRUE COPY OF THE LETTER DATED 31-10-2014 BY PUBLIC INFORMATION OFFICER OF THE TALUK OFFICE.

P7. TRUE COPY OF THE CERTIFICATE DATED 16-12-13 BY THE SECRETARY, KUNHIMANGALAM GRAMA PANCHAYATH.

RESPONDENT(S)' EXHIBITS
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NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C).NO.34833 OF 2014**

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**Dated this the 16th day of January, 2015**

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

The challenge in the writ petition is against the levy of luxury tax on a building said to have been constructed by the petitioner in1998. In the writ petition, while there is a challenge against the levy of luxury tax on the building, it is the alternate contention of the petitioner that the mere fact that he has been paying luxury tax in respect of the building during the years subsequent to 1999 till 2014-2015, cannot be a ground to insist on a continued payment of luxury tax in respect of the building for subsequent years, when it is the contention of the petitioner that the levy of luxury tax itself will not be attracted to the said building.

2. I have heard Sri.Grashious Kuriakose, the learned Senior counsel appearing for the petitioner and Smt.K.T.Lilly, 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 it is not in dispute that the petitioner has been paying luxury tax on the building put up by him for the period up to 2014-2015. The contention of the petitioner, however, is that the mere fact that he

has paid luxury tax in the past cannot be a reason to automatically levy luxury tax for future periods also, more so, when it is his case that the levy itself is not attracted to the building in question. While dealing with a similar contention, I have held in **Ahammed v. District Collector (2014 (4) KLT 272)** that the levy of luxury tax, being a yearly levy, the mere fact that an assessee has been subjected to tax in a particular year cannot be a reason to hold that he would be liable to the tax for the subsequent years as well, when it is his contention that the levy of tax is not attracted to the building in question. Accordingly, if the petitioner prefers a representation before the assessing authority under the Kerala Building Tax Act, stating the reasons as to why, according to him, the levy of luxury tax will not apply to the building put up by him, the assessing authority shall look into the matter and pass orders regarding the liability of the petitioner to the levy of luxury tax in respect of the building in question. It is made clear that future assessments to Luxury tax will be based on the orders to be passed by the assessing authority on the representation filed by the petitioner.

The writ petition is disposed as above.

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

mns