Our Lady of Dolorous Convent, vs the Assessing Authority,

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SooperKanoon Citation : sooperkanoon.com/1327608

Court : Kerala

Decided On : Jul-30-2024

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : WP(C)/22353/2024

Appellant : Our Lady of Dolorous Convent,

Respondent : The Assessing Authority,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. TUESDAY, THE 30TH DAY OF JULY 2024 / 8TH SRAVANA, 1946 PETITIONER: OUR LADY OF DOLOROUS CONVENT, THUDANGANAD, THODUPUZHA, IDUKKI DISTRICT, PIN - 685 587, REPRESENTED BY IT"S MOTHER SUPERIOR SR. VALSAMMA.M.JOSEPH. BY ADVS. K.LATHA JOMTON F. PAYANKAN GAYATHRI NARENDRANATH MEERA MENON T.SUKESH ROY RESPONDENTS:

1 THE ASSESSING AUTHORITY, THE TAHSILDAR, THODUPUZHA TALUK OFFICE, PIN - 685 581. 2 REVENUE DIVISIONAL OFFICER/

SUB COLLECTOR, IDUKKI DISTRICT, PIN - 685 603. 3 THE STATE OF KERALA, REPRESENTED BY IT'S SECRETARY, DEPARTMENT OF REVENUE, GOVERNMENT SECRETARIAT, THIRUVANANATHAPURAM, PIN - 695 001. 4 THE SECRETARY, MUTTOM GRAMAPANCHAYATH, MUTTOM, THODUPUZHA, PIN - 685 587. 5 THE VILLAGE OFFICER, MUTTOM, THODUPUZHA, PIN - 685 587. BY ADVS EBIN MATHEW, SC, MUTTOM GRAMA PANCHAYATH JASMINE M.M (GP)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This writ petition has been filed challenging Ext.P2

order of assessment under the provisions of the Kerala

Building Tax Act, 1975.

2. The learned counsel appearing for the petitioner

submits that the issue stands covered in favour of the petitioner by the judgment of the Supreme Court in Government of Kerala v. Mother Superior Adoration Convent; (2021) 5 SCC 602, and the matter may therefore be directed to be reconsidered by the assessing authority taking note of the judgment of the Supreme Court.

3. The learned Government Pleader points out that

the petitioner did not file any appeal against Ext.P2 order

of assessment and only after the assessment was completed did the petitioner raise any claim for exemption.

4. Heard the learned Standing Counsel for the 4th respondent Panchayat also.

5. Having heard the learned counsel for the

petitioner, the learned Government Pleader and the learned Standing Counsel for the 4th respondent Panchayat and having regard to the fact that the claim for exemption can also be raised at the appellate stage and also taking into consideration the submission of the learned counsel for the petitioner that the issue stands covered in favour of the petitioner by the judgment of the Supreme Court in Mother Superior Adoration Convent (Supra), I am of the view that Ext.P2 order of assessment can be set aside and the assessing authority (1st respondent) can be directed to pass a fresh order of assessment .

6. Accordingly, the writ petition will stand disposed

of by setting aside Ext.P2 order of assessment and directing the assessing authority (1st respondent) to pass a fresh order of assessment after affording an opportunity of

hearing to the petitioner and taking note of the judgment

of the Supreme Court in Mother Superior Adoration Convent (Supra). I make it clear that I have not expressed any opinion on the merits of the petitioners claim and it will be open to the 1 st respondent to take a decision in the matter in accordance with the law and as directed above. Writ petition is disposed of as above. Sd/- GOPINATH P. JUDGE ats APPENDIX OF WP(C) 22353/2024 PETITIONERS EXHIBITS Exhibit P1 THE TRUE COPY OF THE INCOME TAX EXEMPTION REGISTRATION CERTIFICATE ISSUED UNDER SECTION 12A/12AA/12AB IN FORM 10AC VIDE NO. AADFO 1425 AE19748 DATED 04-04-2022 ISSUED BY THE COMMISSIONER OF INCOME TAX, COCHIN TO THE PETITIONER. Exhibit P2 THE TRUE COPY OF THE ORDER AND DEMAND NOTICE NO. C2/300424/2023 DATED 25-09-2023 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.

Exhibit P3   THE TRUE COPY OF THE REPLY DATED 29-1-2024.Exhibit

THE HON'BLE HIGH COURT OF KERALA IN WP(C) NO. 28336 OF 2023 DATED 24TH AUGUST 2023.