



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 2ND DAY OF NOVEMBER 2023 / 11TH KARTHIKA, 1945

WP(C) NO. 10799 OF 2023

PETITIONER/S:

MATHRUBHUMI PRINTING & PUBLISHING CO. LTD,
K.P KESAVA MENON ROAD, KOZHIKODE, REPRESENTED BY ITS
MANAGING DIRECTOR, M.V SHREYAMS KUMAR, SON OF LATE SRI.
M.P. VEERENDRAKUMAR, PIN - 673001

BY ADV BIJU ABRAHAM

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE TAHSILDAR,
OFFICE OF THE TAHSILDAR, KOZHIKODE, PIN - 673020

OTHER PRESENT:

JASMINE M.M.-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
02.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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J U D G M E N T

Mathrubhumi Printing & Publishing Co. Ltd./the petitioner, a public limited company, has filed the present writ petition through its Managing Director, challenging the Ext.P3 order wherein the building tax has been imposed on 6159.97 sq m, area of factory premises of the petitioner situated in Ramanattukara Village, Kozhikode District.

2. The petitioner is one of the leading printing and publishing unit that publishes weekly, fortnightly, monthly and annual magazines, papers, yearbooks, etc., having wide circulation, besides printing a number of books on various topics of selected authors. The petitioner had constructed a building for housing its printing unit in Ramanattukara Village, Kozhikode District.

3. The petitioner has been granted a license under the Factories Act in respect of the said building. The 1st respondent, *vide* impugned order dated 06.02.2023 in Ext.P3,



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had divided the factory building into two parts, i.e., (i) 14503.03 sq m as factory and the balance of 6159.97 sq m as the area used for 'other purposes'. While rejecting the application of the petitioner for exemption for payment of building tax under Section 3(1)(b) of the Kerala Building Tax Act 1975 (for short, 'the Act'), has imposed the building tax in respect of 6159.97 sq m.

3. The short question which falls for consideration in the present writ petition is whether some area which is used in relation to the factory can be excluded from granting exemption from payment of the building tax under Section 3(1)(b) of the Act.

4. Learned Counsel for the petitioner submits that if the use of the building predominantly is for the factory purpose and some area is used for ancillary purposes of the factory, such area cannot be excluded from exemption from payment of the building tax under the provisions of Section



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3(1)(b) of the Act. He further submits that the godown, security room and news bureau office are part of the printing and publishing unit and the work is carried out from the factory premises. Exclusion of the said area from exemption from payment of the building tax is against the spirit of Section 3(1)(b) of the Act.

4.1 It is furthermore submitted that the authority is required to consider whether the building is used *principally* for factory purposes or not. If the building is predominantly and principally used for factory purposes, some area which is used ancillary to the main purposes cannot be excluded from the purview of Section 3(1)(b) of the Act. It is therefore submitted that the impugned Ext.P3 order is unsustainable and against Section 3(1)(b) of the Act.

5. On the other hand, Ms Jasmin M M, learned Government Pleader, submits that the area used as the news bureau office, security room, and godown cannot be



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considered to be part of the factory, and these areas, as they are not part of the factory, have been excluded from exemption from payment of building tax under Section 3(1)(b) of the Act. She supports the impugned Ext.P3 order and submits that there is no ground to interfere with the impugned order inasmuch as the authority has not granted exemption only in respect of that area, which is not part of the factory.

6. To consider the question involved in the writ petition, the Court is required to examine the scope of Section 3(1)(b) of the Act, which is reproduced as follows:

“3. Exemptions – (1) Nothing in this Act shall apply to –

(a)

(b) buildings used principally for religious, charitable or educational purposes or as factories or workshops or cattle/pig/poultry farms or poly houses.”

6.1 The word ‘*principally*’ has to be assigned some meaning while examining an order denying the exemption



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from payment of building tax in respect of the factory. 'Principally' means predominantly. If the predominant purpose of the building is the factory, in my considered view, the ancillary purposes carried out in relation to the factory, in a part of the building which houses the factory, cannot be excluded from the exemption of payment of building tax. It cannot be disputed that the godown, security room and news bureau are related to the work of printing and publishing, which is being carried out from the factory premises. Therefore, the exclusion of the said area from the purview of exemption under Section 3(1)(b) of the Act does not appear to be correct.

6.2 The authority has to assign the correct meaning to the word '*principally*'. In my view, '*principally*' means predominantly. If the predominant purpose is running the factory, the area in which ancillary purposes related to the factory are being carried out is also liable for exemption under



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Section 3(1)(b) of the Act.

Therefore, I find substance in the submission of the learned Counsel for the petitioner. The impugned order (Ext.P3) is hereby set aside. The writ petition stands allowed.

sd/-

DINESH KUMAR SINGH

JUDGE

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APPENDIX OF WP(C) 10799/2023

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE BUILDING PERMIT NO. BL-232/15-16 DATED 18-10-2016 OF RAMANATTUKARA PANCHAYATH
- Exhibit P2 A TRUE COPY OF THE FACTORIES LICENCE DATED 5-07-2019 ISSUED TO THE PETITIONER
- Exhibit P3 TRUE COPY OF THE GOVERNMENT ORDER NO. 593/2023/RD DATED 06-02-2023 OF THE FIRST RESPONDENT
- Exhibit P4 . A TRUE COPY OF THE DETAILS OF THE GROUND FLOOR OF FACTORY BUILDING OF THE PETITIONER
- Exhibit P5 A TRUE COPY OF THE DETAILS OF THE FIRST FLOOR OF FACTORY BUILDING OF THE PETITIONER
- Exhibit P6 A TRUE COPY OF THE DETAILS OF THE SECOND FLOOR OF FACTORY BUILDING OF THE PETITIONER
- Exhibit P7 A TRUE COPY OF THE REPLY DATED 11.05.2023 ISSUED BY THE DEPUTY TAHSILDAR, [BUILDING TAX], KOZHIKODE, WITH ENGLISH TRANSLATION OF P7 (A)