(2023) 12 KL CK 0233

In the High Court Of Kerala

Case No : Writ Appeal No. 2228 Of 2023

Babu.S — APPELLANT

Vs

State Tax Officer — RESPONDENT

Date of Decision : 22-12-2023

Acts Referred:
Kerala Building Tax Act, 1975 — Section 5, 5A

Citation : (2023) 12 KL CK 0233

Hon'ble Judges : Dr. A.K.Jayasankaran Nambiar, J;Dr. Kauser Edappagath, J

Bench : Division Bench

Advocate : R.Sivadasan, V K Shamsudheen

Final Decision : Dismissed

Judgement

Dr. Kauser Edappagath, J.

1. The appellant is aggrieved by the judgment of the learned Single Judge in WP(c) No.4485/2023 dated 1st December 2023.

2. The appellant filed the writ petition challenging the assessment to building tax and luxury tax of the residential building constructed by him under Sections 5 and 5 A of the Kerala Building Tax Act.

3. The assessing authority on measurement found that the total plinth area of the building comes to 330.86 sq. metres. According to the appellant, the total plinth area would come to 268.02 sq. metres only. The statutory appeal and revision filed against the assessment orders were dismissed. It was after that the appellant approached this court with the writ petition. The learned Single Judge dismissed the writ petition.

4. We have heard Sri.R.Sivadasan, the learned counsel for the appellant and Sri.V.K.Shamsudheen, the learned Senior Government Pleader.

5. The building tax and luxury tax have to be assessed in terms of the plinth area. All the statutory authorities concurrently found that the total plinth area of

the building would come to 330.86 sq. metres. The said finding of fact arrived at by the statutory authorities cannot be called into question in the writ petition. We see no reason to interfere with the impugned judgment. The appellant is bound to pay the building tax and luxury tax assessed by the 3rd respondent. However, it will be open to the appellant to show the assessing authority for luxury tax in the next assessment year that his building falls below the ceiling limit of 278.7 sq. metres if he effects any modifications to the building in question. In such an event, the 3rd respondent shall consider and re-assess the same in accordance with law. The appeal stands dismissed with the above modification.