



2023/KER/77896

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 7TH DAY OF DECEMBER 2023 / 16TH AGRAHAYANA, 1945

WP(C) NO. 21078 OF 2023

PETITIONER/S:

- 1 P.H.FATHIMA, [REDACTED]
- 2 TASNIM MARIAM WAHID, [REDACTED]
- 3 THOUFUL WAHID, [REDACTED]

BY ADVS. AAKHIL MOHAMMED.P.M
P.M.MOHAMMED SHIRAZ

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY SECRETARY, REVENUE DEPARTMENT REVENUE
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 TAHASILDAR,
KODUNGALLUR TALUK, TALUK OFFICE, MINI CIVIL STATION,
KODUNGALLUR, PIN - 680664
- 3 DISTRICT COLLECTOR,
CIVIL STATION, AYYANTHOLE, THRISSUR -, PIN - 680003



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OTHER PRESENT:

RESHMITA RAMACHANDRAN-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



J U D G M E N T

The challenge in this writ petition by the petitioners is the order passed by the 3rd respondent, the District Collector, Thrissur, in Ext.P7, whereby the petitioners' revision filed under Section 13 of the Kerala Building Tax Act 1975 has been rejected merely on the ground that against the assessment order the remedy is of appeal under Section 11 of the Kerala Building Tax Act 1975 before the Revenue Divisional Officer and the revision lie only against the appellate order passed under Section 11.

2. Learned Counsel for the petitioner submits that the view taken by the 3rd respondent while rejecting the revision is that the revision is not maintainable, is against the express provision of Section 13 of the Kerala Building Tax Act, as well as against the judgment of this Court in *James Varghese v. District Collector*¹. Section 13 of the Kerala Building Tax Act

¹ 1989 KHC 349



provides the remedy of revision to an assessee even against an assessment order, which reads as under:

“13. Power of revision of the District Collector.—

(1) The District Collector may, either suo motu or on application by any person aggrieved, call for and examine the record of any order passed by the appellate authority or the assessing authority and may pass such order in reference thereto as he thinks fit:

Provided that no such order shall be passed under this sub-section without notice to the party who may be affected by the order:

Provided further that the District Collector shall not call for and examine the record of any order passed by the assessing authority—

a. if the period of thirty days specified for presentation of appeal under sub-section (3) of section 11 has not expired; or

b. if an appeal against that order is pending before the appellate authority:

Provided also that no order passed on the basis of a reference under section 12 to the extent covered by the answer to such reference shall be subject to revision by the District Collector.

(2) the District Collector shall not suo motu revise an order under sub-section (1) if that order has been passed more than



three months previously.

(3) An application under sub-section (1) by an aggrieved party shall be made before the expiry of thirty days from the date on which the order in question was communicated to him.

(4) No application for revision under sub-section (1) by an aggrieved party shall lie unless fifty per cent of the building tax has been paid.”

3. From the bare perusal of Section 13, it can be gathered that the District Collector may exercise the revisional power against the assessment order, and it is not limited only to the order passed in appeal under Section 11 by the Revenue Divisional Officer. Of course, the power of revision against the assessment order or the appellate order is to be exercised within the parameters provided under Section 13.

3.1 The petitioner has already deposited 50% of the tax as per the requirement under sub-section (4) of Section 13. Learned Counsel for the petitioner also submits that the petitioner received the assessment order only on 10.01.2023,



and he filed the revision on 23.02.2023, i.e., within the time prescribed under Section 13 of the Kerala Building Tax Act.

3.2 This Court, while considering the issue regarding the maintainability of the revision before the District Collector against the assessment order in the case of *James Varghese* (supra) in paragraphs 13 and 14, has held as under:

“13. Many taxing and other enactments contain similar schemes of providing by way of remedies, an appeal and a revision. Taxation enactment, General statutes like those dealing with cooperation and education, and even Taxation enactments have somewhat similar schemes providing for a dichotomy of remedies. The Indian Tax Act, 1922 had provisions with closer similarity. The question whether with a wider and more liberal appellate forum, a revisional jurisdiction could co-exist, had also been considered from very early times, while construing such provisions.

14. On the basis of reasoning available on statutes in pari materia, it can be safely held that an assessee can invoke the powers of revision of the District Collector, without knocking at the doors of the Revenue Divisional Officer. The Revisional Authority has, unlike the appellate one, has only comparatively attenuated powers. The question is not about the amplitude of the power, but about its very existence. The



answer is the power exists, the limitation in the exercise of the power notwithstanding.”

4. Thus, considering the said judgment and the provisions of Section 13 of the Kerala Building Tax Act, the present writ petition is allowed. The impugned order is quashed, and the matter is remanded back to the District Collector for a decision on merit in the revision filed by the petitioners against the assessment order. The District Collector should expedite the proceedings and pass the final order expeditiously, preferably within a period of two months.

Sd/-

DINESH KUMAR SINGH

JUDGE

APPENDIX OF WP(C) 21078/2023

PETITIONER ANNEXURES

Annexure	TRUE PHOTOCOPY OF POWER OF ATTORNEY OF 3RD PETITIONER
Exhibit-P1	TRUE PHOTOCOPY OF ASSESSMENT ORDER C5-10246/13 DATED 20/9/2013
Exhibit -P2	TRUE PHOTOCOPY OF ORDER OF ASSESSMENT DATED 29/01/2019
Exhibit- P3	TRUE PHOTOCOPY OF LETTER DATED 28/02/2019
Exhibit -P4	TRUE PHOTOCOPY OF RECTIFICATION PETITION DATED 28/11/2019
Exhibit -P5	. TRUE PHOTOCOPY OF ORDER NO. C5-27/2019 DATED 24/12/2022 OF 2ND RESPONDENT
Exhibit -P6	TRUE PHOTOCOPY OF REVISION PETITION DATED 20/02/2023
Exhibit -P7	TRUE PHOTOCOPY OF LETTER NO. DCTSR/3217/23-G8 DATED 12/06/2023 OF 3RD RESPONDENT
Exhibit P8	TRUE PHOTOCOPY OF RECEIPT NO. 0047007 DATED 07/03/2019
Exhibit -P9	TRUE PHOTOCOPY OF RECEIPT NO. 0007954 DATED 13/05/2019
Exhibit -P10	TRUE PHOTOCOPY OF RECEIPT NO. 0358393 DATED 09/08/2019
Exhibit -P11	TRUE PHOTOCOPY OF RECEIPT NO. KL08051104663/2019 DATED 14/11/2019
Exhibit -P12	TRUE PHOTOCOPY OF RECEIPT NO. KL 08051100568/2020 DATED 17/02/2020



Exhibit-P2[a]	True English Translation of Ext-P2
Exhibit-P3[a]	True English Translation of Ext-P3
Exhibit-P5[a]	True English Translation of Ext-P5
Exhibit-P7[a]	True English Translation of Ext-P7
Exhibit-P8[a]	True English Translation of Ext-P8
Exhibit-P9[a]	True English Translation of Ext-P9
Exhibit-P10[a]	True English Translation of Ext-P10
Exhibit-P11[a]	True English Translation of Ext-P11
Exhibit-P12[a]	True English Translation of Ext-P12