IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

TUESDAY, THE 18TH DAY OF AUGUST 2026 / 27TH SRAVANA, 1948

WP(C) NO. 3192 OF 2023

PETITIONER:

REGIONAL SPORTS CENTRE,
COCHIN, HAVING ITS REGISTERED OFFICE AT ELAMKULAM ROAD, KADAVANTHRA, KOCHI -682 020.

REPRESENTED BY ITS HONORARY SECRETARY, SAS NAVAZ, S/O.S.A.SHAKUR, AGED 68, RESIDING AT FLAT NO 10D, SYLVAN HEIGHTS, AMALA BHAVAN ROAD, CHILAVANNUR, KADAVANTHARA POST, COCHIN.

BY ADVS.
SRI.K.M.FIROZ
SHRI.NISHIL.P.S.

RESPONDENTS:

1 THE STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM, PIN – 695001.

2 THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN – 695001.

3 THE DISTRICT COLLECTOR, ERNAKULAM,
CIVIL STATION, ERNAKULAM, PIN – 682030.

4 TAHSILDAR, KANAYANNUR TALUK, TALUK OFFICE,
ERNAKULAM, PIN – 682011.

5 DEPUTY TAHSILDAR, KANAYANNUR TALUK,
TALUK OFFICE, ERNAKULAM, PIN – 682011.

BY GOVERNMENT PLEADER, SMT.HARIMA HARIHARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14.08.2026, THE COURT ON 18.08.2026 DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is a Society having obtained registration under the provisions of the Travancore Cochin Literary, Scientific and Charitable Societies Registration Act, 1955. The object of the Society is stated to be the welfare measures for imparting coaching/training in sports, games, cultural, and physical activities, etc. The petitioner has filed the captioned writ petition seeking to challenge Ext.P11 order issued by the Government refusing to exempt the various buildings constructed by it from taxation under the provisions of the Kerala Building Tax Act, 1975 (for short, the “Act”).

2. The short facts necessary for the disposal of this writ petition are as follows:

The petitioner is stated to have established a sports complex in Cochin City, also having constructed various buildings/structures in Survey Nos.378 part 385/4 and 5, 386/1, 387/3, etc. in Elamkulam Village. The petitioner is stated to be India’s first ISO 9001:2015 certified Sports Centre with as many as 33 world-class sports facilities. The petitioner, with reference to the various buildings constructed on its property, states that they are “principally” used for charitable and educational purposes, on account of which it is entitled to the benefit of exemption under Section 3(1)(b) of the Act. Though an appropriate application was presented seeking exemption as above, the Government, pursuant to Ext.P11 order dated 25.04.2023, rejected the exemption claimed as above. It is seeking to challenge the afore order of the Government, the petitioner has filed the captioned writ petition.

3. I have heard Sri.K.M.Firoz, the learned counsel for the petitioner, as well as Smt.Harima Hariharan, the learned Government Pleader for the respondents.

4. Sri.Firoz, the learned counsel, would contend that:

i. The petitioner is entitled to exemption either as a case of “charitable activity” or as a case of “educational” purposes.

ii. The petitioner had already been granted exemption with reference to the provisions of Sections 12A and 80G of the Income Tax Act, 1961, taking note of the charitable activities carried on by it. In the light of the afore, it is his submission that the activity carried on entitles for exemption under Section 3(1)(b) of the Act.

iii. The primary object of the Government and the promoters of the petitioner Society was for establishing a Sports Centre, as is clear from the Memorandum of Association at Ext.P5, promotional sports activities dedicated to public welfare, public good, and the benefit of the Society, and is therefore an activity for the advancement of an object of “general public utility”. "Charitable" is any activity that accords with contemporary social ideas and public policy on the public good.

iv. There is a total absence of profit motive with respect to the activities carried on by the petitioner.

v. He sought to rely on a series of judgments in support of his submissions.

5. *Per contra*, Smt.Harima, the learned Government Pleader, would contend that:

i. The Government has considered the contentions raised by the petitioner elaborately.

ii. The petitioner is collecting an exorbitant membership fee for granting membership. Similarly, a user fee on a daily basis is being collected from the members. Coaching fees are also being collected.

iii. It is only as regards four persons that the benefit of free training is being extended.

iv. The activities of the petitioner cannot be considered charitable in nature in view of the afore position.

v. Under no stretch of imagination can the activities be considered as "educational" since it is only the regular scholastic activities imparted by an educational institution that can be extended the benefits available thereunder.

6. I have considered the rival contentions as well as the connected records.

7. The short issue arising for consideration is as to whether the petitioner is entitled for the benefit of exemption under Section 3(1)(b) of the Act.

8. The Kerala Building Tax Act provides for the levy of tax on buildings in the State. Section 3 provides for exemptions as follows:

"**3. Exemptions --**

(1) Nothing in this Act shall apply to—

(a) buildings owned by the Government of Kerala or the Government of India or any local authority; and

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

> **Explanation I--** For the purposes of this sub-section, "charitable purpose" includes relief of the poor and free medical relief."

Thus, the buildings owned by the Government of Kerala/Government of India or any local authority are exempted under clause (a) to Section 3(1). The petitioner seeks the benefit of the exemption extended under clause (b). Under clause (b), the buildings which are used principally for

i. religious
ii. charitable or
iii. educational purposes

are entitled to exemption. Explanation I thereto also requires to be noticed, as per which "charitable purposes" includes the relief of the poor and free medical aid. Clause (b) also requires to be noticed further, as it only requires the building to be "principally" used for the purposes mentioned thereunder. In other words, it is the principal use and the purpose for such use which entitles the building to enjoy exemption.

9. In the case at hand, the petitioner claims it is entitled for exemption under the head "charitable purposes" or "educational purposes".

10. Straightaway, the question as to whether the petitioner can seek the benefit of exemption under the head "educational purposes" requires to be noticed.

11. The impugned order at Ext.P11 makes reference to the judgment of the Apex Court in **Sole Trustee, Loka Shikshana Trust v. Commissioner of Income Tax, Mysore [(1976) 1 SCC 254]** which discussed the question as to whether Section 2(15) of the Income Tax Act would also include "sports promotion" as a case of "education" and hence exempted, holding as under:

> "5. The sense in which the word ''education'' has been used in S.2(15) is the systematic instruction, schooling or training given to the young in preparation for the work of life. It also connotes the whole course of scholastic instruction which a person has received. <u>The word "education" has not been used in that wide and extended sense according to which every acquisition of further knowledge constitutes education.</u> According to

> this wide and extended sense, travelling is education, because as a result of travelling you acquire fresh knowledge. Likewise, if you read newspapers and magazines, see pictures, visit art galleries, museums and zoos, you thereby add to your knowledge. Again, when you grow up and have dealings with other people, some of whom are not straight, you learn by experience and thus add to your knowledge of the ways of the world. If you are not careful, your wallet is liable to be stolen or you are liable to be cheated by some unscrupulous person. The thief who removes your wallet and the swindler who cheats you teach you a lesson and in the process make you wiser though poorer. If you visit a night club, you get acquainted with and add to your knowledge about some of the not much revealed realties and mysteries of life. All this in a way is education in the great school of life. But that is not the sense in which the word "education" is used in clause (15) of S.2. What education connotes in that clause is the process of training and developing the knowledge, mind and character of students by formal schooling."
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> (Underlining supplied)

Thus, the Apex Court categorically found that the term "education" does not require to be provided such a vide meaning, so as also to cover a case of like nature.

12. The Apex Court, later in **Assistant Commissioner of Income-Tax (Exemptions) v. Ahmedabad Urban Development Authority [2022 449 ITR 1 (SC)]**, has also followed the afore judgment, holding that the claim of "sports association" that it will fall within the ambit of education entitled for benefit under Section 2(15) of the Income Tax Act does not require to be accepted. In the light of the afore, I am of the opinion that the petitioner may not be entitled to the benefit of exemption under the heading "educational purposes".

13. In such circumstances, what remains for consideration is as to whether the petitioner requires to be extended the benefit of exemption under "charitable purposes".

14. The fact that the petitioner has been extending training facilities for as many as 33 sports items is not in dispute. The nature of the activities – training in sports – extended by the petitioner has been specifically noticed in the impugned order at Ext.P11. The petitioner has further pointed out that it also rents out its premises for the conduct of tournaments, marriages, etc., and earns income from letting

out the shop rooms in the surrounding area. The petitioner claims that the income so generated is being used for running the Sports Centre. At the same time, the impugned order at Ext.P11 states that the benefit of free training is being extended only to “four persons”. This statement in the impugned order is sought to be controverted by the petitioner with specific reference to the details of free training stated to have been provided to various persons, as evidenced by the list of students/trainees at Ext.P7. A perusal of Ext.P7 shows that free coaching is being provided to various persons in various sports items. However, this has not been considered or discussed in the impugned order at Ext.P11. The list at Ext.P7 also shows that such facilities are being extended on the basis of the recommendation of the MPs, MLAs, Councillors, etc. However, the impugned order at Ext.P11 does not take into account the afore aspect.

15. In this connection, the petitioner also sought to rely on the principles laid down by the Apex Court in **Government of Kerala v. Mother Superior [2021 (2) KLT 270 (SC)]**.

In that case, the Apex Court considered the question as to whether a benefit of exemption could be extended when the building is used "principally for" the purpose prescribed by the statute, holding that the benefit of exemption is being extended on the "user" and not on ownership. It is further found by the Apex Court that the building need not be used exclusively for the purpose mentioned therein and if the principal use satisfies the purpose of exemption, that requires to be extended. The following observations of the Apex Court require to be noticed as under:

> "12. A reading of the provision would show that the object for exempting buildings which are used principally for religious, charitable or educational purposes would be for core religious, charitable or educational activity as well as purposes directly connected with religious activity. One example will suffice to show the difference between a purpose that is directly connected with religious or educational activity and a purpose which is only indirectly connected with such activity. Take a case where, unlike the facts in Civil Appeal No. 202 of 2012, nuns are not residing in a building next to a convent so that they may walk over to the convent for religious instruction. Take a case where the neighbouring building

> to the convent is let out on rent to any member of the public, and the rent is then utilised only for core religious activity. Can it be said that the letting out at market rent would be connected with religious activity because the rental that is received is ploughed back only into religious activity? Letting out a building for a commercial purpose would lose any rational connection with religious activity. The indirect connection with religious activity being the profits which are ploughed back into religious activity would obviously not suffice to exempt such a building. But if on the other hand, nuns are living in a neighbouring building to a convent only so that they may receive religious instruction there, or if students are living in a hostel close to the school or college in which they are imparted instruction, it is obvious that the purpose of such residence is not to earn profit but residence that is integrally connected with religious or educational activity."

Thus, in the case at hand, it is the principal use of the building that requires to be considered. However, as already noticed, the finding in Ext.P11 order that free training is being provided only to "four persons" alone does not appear to be correct; rather, it requires reconsideration by the Government in the light of the statement contained in Ext.P7.

16. This Court also notices the judgment of the Apex Court in **Lissy Medical Institutions v. State of Kerala and Others [(2024) 1 SCC 200]**, holding that the Explanation I to Section 3(1) of the Act is not confined to relief of the poor and free medical relief as is evidenced by the use of the expression "includes".

17. On the whole, I am of the opinion that the matter requires a revisit at the hands of the Government.

Therefore, this writ petition would stand disposed of as under:

i. Ext.P11 order issued by the Government is *set aside*.

ii. The Government to reconsider the claim for exemption raised by the petitioner afresh with specific reference to the observations made as above.

iii. Fresh orders to be issued after granting the petitioner an opportunity of being heard, as expeditiously as possible, at any rate, within a period of six months from today.

iv. Till fresh orders are issued as above, all coercive proceedings against the petitioner are also to be kept in abeyance.

Sd/-

HARISANKAR V. MENON

JUDGE

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APPENDIX OF WP(C) NO.3192 OF 2023

PETITIONER'S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE NOTICE BEARING NO B1-17315/22 ISSUED BY THE 4TH RESPONDENT PURPORTEDLY UNDER SECTION 9(2)/9(4) OF THE KERALA BUILDING TAX ACT, 1975 ADDRESSED TO THE SECRETARY OF THE PETITIONER IN FORM NO IV (SIGNED ON 26-9-2022).

EXHIBIT P2 TRUE COPY OF THE NOTICE BEARING NO 17315/2022 ISSUED BY THE 4TH RESPONDENT IN FORM NO III, PURPORTEDLY UNDER SECTION 7(3) OF THE ACT (SIGNED ON 26-9-2022) ADDRESSED TO THE SECRETARY OF THE PETITIONER.

EXHIBIT P3 A TRUE COPY OF THE REPLY DATED 30-9-2022 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT, TAHSILDAR, KANAYANNUR TALUK.

EXHIBIT P4 A TRUE COPY OF THE ORDER BEARING NO B1/127615-204914/2022 DATED 25-10-2022, ISSUED BY THE 4TH RESPONDENT UNDER SECTION 9(1) OF THE KERALA BUILDING TAX ACT, 1975.

EXHIBIT P4(A) A TRUE COPY OF THE DEMAND NOTICE BEARING NO B1/127615-204914/2022 DATED 25-10-2022 ISSUED UNDER SECTION 10 OF THE KERALA BUILDING TAX ACT, 1975 BY THE 4TH RESPONDENT.

EXHIBIT P5 A TRUE EXTRACT OF RELEVANT PORTION OF MEMORANDUM OF ASSOCIATION (RULES AND REGULATIONS) OF THE PETITIONER.

EXHIBIT P6 A TRUE COPY OF LIST OF EXCESS OF EXPENDITURE OVER INCOME OF THE PETITIONER FROM 1993-1994 TILL 2021-2022.

EXHIBIT P7 A TRUE COPY OF THE LIST OF STUDENTS / TRAINEES WHO HAD BEEN BENEFITED BY THE FREE COACHING CONDUCTED IN THE BUILDINGS OF PETITIONER IN DIFFERENT GAMES.

EXHIBIT P8	A TRUE COPY OF THE PROCEEDINGS DATED 19-2-1981 ISSUED BY THE INCOME TAX OFFICER, FOR COMMISSIONER OF INCOME TAX, COCHIN PASSED UNDER SECTION 12A OF THE INCOME TAX ACT, 1961.
EXHIBIT P9	A TRUE COPY OF THE ORDER PASSED UNDER SECTION 80G(5)(VI) OF THE INCOME TAX ACT, 1961 BY THE INCOME TAX OFFICER (TECH) ON BEHALF OF COMMISSIONER OF INCOME TAX-I, KOCHI IN FAVOUR OF THE PETITIONER.
EXHIBIT P10	A TRUE COPY OF THE APPLICATION DATED 15-12-2022 (WITHOUT ANNEXURE) PREPARED AND FORWARDED BY THE PETITIONER BEFORE THE SECRETARY TO GOVERNMENT OF KERALA, REVENUE DEPARTMENT RAISING THE QUESTION OF EXEMPTION.
EXHIBIT P11	A TRUE COPY OF THE ORDER NO.GO(ORDINARY) NO.1617/2023 RD DATED 25.04.2023 ISSUED BY THE UNDER SECRETARY TO GOVERNMENT OF KERALA.
EXHIBIT P12	A TRUE COPY OF THE DETAILS PREPARED BY THE PETITIONER REGARDING AREA INCIDENTALLY RENTED OUT