



## INDIA – March 2021

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### ***Supreme Court rejects Kerala's stand***

*Accommodation for nuns, students can claim exemption, says Bench*

The Supreme Court on Monday held that residential accommodation for nuns near a convent and hostels for students attached to educational institutions can claim exemption from paying building tax in Kerala.

A Bench led by Justice Rohinton Nariman, in a judgment, said a building can be exempted from property tax if its core purpose is to accommodate nuns and students, not for profit, but to provide them easy access to their respective centres of study.

“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,” Justice Nariman, who authored the verdict, observed.

The court did not agree with the Kerala government's view that such buildings should be taxed as they are used for residential purposes, and not exclusively for religious activities.

Section 3(1)(b) of the Kerala Building Tax Act, 1975 exempts payment of tax for premises used “principally” for religious, charitable or educational purposes or as factories or workshops.

The Kerala government argued that “a building used principally for religious or educational purposes can only be a building that is used for religious/educational activity and not for activity which has no direct connection with religious/educational activity, such as residential quarters for nuns, priests or hostel accommodation for students”.

But the court disagreed with the State in its judgment.

### **International Property Tax Institute**

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It snubbed the Kerala government's stand that exemptions from paying tax contained in a fiscal statute should be strictly construed and any ambiguity should be interpreted in favour of the State.

"If we were to accept the contention of the State, buildings in which nuns are housed and students are accommodated in hostels which have been completed after 1.4.1999 and which have a plinth area of 278.7 square meters would be liable to pay luxury tax..." Justice Nariman observed.

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