IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 3148 of 2015 (P)

PETITIONER(S):

G. AJITH KUMAR, AGED 55 YEARS,
S/O. GOPINATHAN NAIR, ANI NILAYAM,
OPP. SIVAN KOVIL, NEMOM P.O.,
THIRUVANANTHAPURAM - 695 020.

BY ADVS.SRI.G.P.SHINOD,
SRI.RAM MOHAN.G.,
SRI.MANU V.,
SRI.GOVIND PADMANAABHAN,
SRI.AJIT G.ANJARLEKAR.

RESPONDENT(S):
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1. THE DISTRICT COLLECTOR,
COLLECTORATE, CIVIL STATION, KODAPPANAKKUNNU,
THIRUVANANTHAPURAM - 695 004.

2. SPECIAL TAHSILDAR L.A (NH),
LAND ACQUISITION OFFICER,
OFFICE OF THE SPECIAL TAHSILDAR LA (NH),
PMG, THIRUVANANTHAPURAM - 695 001.

3. COMMISSIONER OF INCOME TAX (TDS),
OFFICE OF THE COMMISSIONER OF INCOME TAX,
KAWDIAR, THIRUVANANTHAPURAM - 695 003.

R1 & R2 BY GOVT. PLEADER SMT.SHOBA ANNAMMA EAPEN.
R3 BY ADV. SRI.JOSE JOSEPH, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 3148 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT-P1- TRUE COPY OF THE NOTICE OF AWARD IN LAC NO. 239/2013 ISSUED BY THE 2ND RESPONDENT DATED 26/02/2014.

EXHIBIT-P2- TRUE COPY OFT HE JUDGMENT IN WP(C).NO.4209/2014 DATED 03/06/2014 OF THIS HONOURABLE COURT.

EXHIBIT-P3- TRUE COPY OF THE LETTER DATED 11/08/2014 ISSUED BY THE 2ND RESPONDENT IN FAVOUR OF THE DISTRICT TREASURY OFFICER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.3148 of 2015

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Dated this the 2nd day of February, 2015

J U D G M E N T

The petitioner who was entitled to compensation in terms of the Land Acquisition Act has approached this Court seeking a direction to the respondents not to deduct tax at source in terms of Section 194 LA of the Income Tax Act. It is the case of the petitioner that the compensation amounts were payable to him pursuant to a negotiated settlement, and hence, it would not be a payment that attracted the provisions of Section 194 LA of the Income Tax Act for the purposes of tax deducted at source. I note that, although, the issue as to whether, in such cases, the deduction of tax under Section 194 LA of the Income Tax Act has to be effected, has already been decided in Ext.P2 judgment. It is pointed out, however, that in the instant case, the tax amounts have already been deducted and paid over to the Income Tax Department. In that view of the matter, I feel the remedy of the petitioner now lies in filing returns under the Income tax Act for the assessment year in question, and claiming credit of the tax deductions effected by the respondents while paying the compensation amount to him for the year in question. If the petitioner files the returns under the Income Tax Act, the issue shall be considered by the assessing authority under the said Act and the benefit of Ext.P2 judgment shall be extended to the petitioner as well.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/