IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 5319 of 2015 (L)
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PETITIONER(S) :
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1. **ABDUL AZEEZ, AGED 45 YEARS,**
   S/O.MAMMATH, KALLAYIL HOSUE, VIDAKUZHAKARA- 683 563.

2. **ASMA,**
   W/O.ABDUL AZEEZ, KALLAYIL HOUSE,
   VIDAKUZHAKARA- 683 563.

   BY ADVS.SRI.C.HARIKUMAR
   SRI.PRADEEPKUMAR JOHN
   SMT.C.B.ANUROOPA

RESPONDENT(S) :
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1. **THE DISTRICT COLLECTOR,**
   ERNAKULAM, CIVIL STATION, KAKKANAD- 682 030.

2. **THE SPECIAL TAHASILDAR (LA) NO. III,**
   KOCHI INTERNATIONAL AIRPORT, NEDUMBASSERY,
   NAYATHODE P.O, ERNAKULAM- 683 572.

3. **THE COMMISSIONER OF INCOME TAX (TDS),**
   OFFICE OF THE COMMISSIONER OF INCOME TAX, KOCHI,
   C.R. BUILDING, I.S PRESS ROAD, KOCHI- 682 018.

   R1 & R2 BY GOVERNMENT PLEADER SRI.SUDEESH KUMAR
   R3 BY ADV. SRI.JOSE JOSEPH, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-02-2015, ALONG WITH W.P.(C).NO.5320 OF 2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 5319 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: **THE TRUE COPY OF THE SALE DEED DATED 05-10-2006 OF THE EDAPALLY SUB REGISTRAR OFFICE.**

EXHIBIT P2: **TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS DATED 27-11-2014.**

EXHIBIT P3: **TRUE COPY OF THE NOTICE DATED 22-01-2015 ISSUED TO THE PETITIONERS SHOWING THE AMOUNT AFTER THE DEDUCTION OF THE 10% TOWARDS INCOME TAX.**

RESPONDENT(S)' EXHIBITS
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NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5319 OF 2015
&
W.P.(C).NO.5320 OF 2015

Dated this the 24th day of February, 2015

<u>J U D G M E N T</u>

The petitioners, who were entitled to compensation in terms of the Land Acquisition Act, have 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 petitioners that the compensation amounts were payable to them 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 their favour by a judgment of this Court in W.P.(C). No.5607/2014, 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 petitioners 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 them for the year in question. If the petitioners file the returns under the Income Tax Act, the issue shall be considered by the assessing authority under the said Act.

The writ petitions are disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp