

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 10986 of 2014 (W)

PETITIONER(S):

A.K.HALEEM, AGED 64 YEARS,
S/O.A.K.KALEED, SOUDA MANZIL, EROOR NORTH
TRIPUNITHURA, COCHIN 682 306.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENT(S):

1. UNION OF INDIA
REPRESENTED BY SECRETARY TO GOVERNMENT
INCOME TAX DEPARTMENT, NEW DELHI 110 001.
2. THE COMMISSIONER OF INCOME TAX
BANGALORE-11, BANGALORE 560 078
3. THE INCOME TAX OFFICER
WARD NO.4(3), 5TH FLOOR, UNITY BUILDING AMNNEXE
P.KALINGA RAO ROAD, BANGALORE 560 078
4. THE COMMISSIONER OF INCOME TAX-11,
I.S.PRESS ROAD, KOCHI 682 018
5. THE INCOME TAX OFFICER
WARD-2(2), KOCHI , ROOM NO. 307
C.R.BUILDING, I.S.PRESS ROAD, KOCHI 682 018.

R, BY ADV. SRI.P.K.RAVINDRANATHA MENON (SR.)
R,R BY ADV. SRI.JOSE JOSEPH, SC, FOR INCOME TAX
R BY SRI.P.PARAMESWARAN NAIR,ASG OF INDIA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 COPY OF THE LETTER DATED 29/6/2012 SUBMITTED BY THE
PETITIONER BEFORE THE 3RD RESPONDENT

EXHIBIT P2 COPY OF THE SUMMONS F.NO.ITO/WARD-4(3) /2012 -13 DATED
7/2/2013 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER

EXHIBIT P3 COPY OF THE NOTICE NO. ABOPH8901Q/2008-09 DATED 10/1/2014
ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER

EXHIBIT P4 COPY OF THE LETTER NO.ITO/WARD-2(2)/2008-09 DATED 20/2/2014
ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER

EXHIBIT P5 COPY OF THE LETTER DATED 12/3/2014 SUBMITTED BY THE PETITIONER
BEFORE THE 5TH RESPONDENT

EXHIBIT P6 COPY OF THE ASSESSMENT ORDER DATED 25/3/2014 PASSED BY THE
5TH RESPONDENT

EXHIBIT P7 COPY OF THE LETTER DATED 25/3/2014 ISSUED BY THE 5TH
RESPONDENT TO THE PETITIONER

EXHIBIT P8 COPY OF THE LETTER DATED 7/4/2014 ISSUED BY THE 5TH
RESPONDENT TO THE PETITIONER

EXHIBIT P9 COPY OF THE ORDER DATED PASSED BY THE 3RD RESPONDENT TO THE
PETITIONER

EXHIBIT P10 COPY OF THE ORDER DATED 17/4/2013 PASSED BY THE HONOURABLE
HIGH COURT OF KARNATAKA,BANGALORE IN WRIT PETITION NO.
6452/2010 (T-IT)

EXHIBIT P11 COPY OF THE ORDER DATED 9/10/2012 PASSED BY THE KOLKATTA
HIGH COURT IN WPC 18954(W)/2012

EXHIBIT P12 COPY OF THE LETTER NO.C5/3/12/12/CBI/ACB/BLR/2014/7590 DATED
15.4.20143 ISSUED TO THE PETITIONER BY CBI, BANGALORE.

EXHIBIT P12(a) TRUE COPY OF THE NOTICE 15.6.2012 ISSUED BY THE
THIRD RESPONDENT.

EXHIBIT P13 TRUE COPY OF THE ORDER SHEET.

EXHIBIT P14 TRUE COPY OF THE LETTER NO.C5/3/12/12/CBI/ACB/BLR/2014
DATED 21.10.2014 ISSUED BY CBI, ANTI CORRUPTION BRANCH
BANGALORE.

: 2 :

- EXHIBIT P15 TRUE COPY OF THE LETTER NO.C5/3/12/12/CBI/ACB/BLR/2014
DATED 29.10.2014 ISSUED BY CBI, ANTI CORRUPTION
BRANCH,BANGALORE.
- EXHIBIT P16 TRUE COPY OF THE ORDER NO.ITO/W-4(3)/Bang/2012-13
DATED 27.3.2014 PASSED BY THE THIRD RESPONDENT.

RESPONDENT(S)' EXHIBITS

- EXT.R5(a) TRUE COPY OF THE TRANSFER MEMO SENT BY THE INCOME TAX
OFFICER, WARD 4(3), BANGAORE TO THE ITO, WARD 2(2), KOCHI.
- EXT.R5(b) RELEVANY DETAILS OF THE TRANSFER PROPOSAL LETTER
DATED 22.2.2013 OF THE ITO (PR), O/O THE CHIEF COMMISSIONER
OF INCOME TAX, BANGALORE TO THE CIT-II, KOCHI.
- EXT.R5(c) TRUE COPY OF THE NOTICE DATED 10.1.2014.
- EXT.R5(d) TRUE COPY OF THE NOTICE DATED 20.2.2014.
- EXT.R2(a) TRUE COPY OF THE ORDER SHEET DT. 7/2/13.
- EXT.R2(b) TRUE COPY OF THE LETTER DATED 14.2.2013.
- EXT.R2(c) TRUE COPY OF THE REPORT DATED 11/1/13.
- EXT.R2(B1) TRUE COPY OF THE LETTER DATED 14.2.2013.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.10986 of 2014

Dated this the 25th day of February, 2015

J U D G M E N T

This judgment is passed on the basis of consensus between the parties.

2. The assessment proceedings have been transferred from the file of the Income Tax Officer, ward No.4(3), Bangalore to the Income Tax Officer, ward No.2(2), Cochin by Ext.P9 order. It is seen that Ext.P9 order passed by the Commissioner of Income Tax, Bangalore-2, Bangalore was without notice to the petitioner assessee. Ext.P6 assessment order consequently passed by the Income Tax Officer, ward No.2(2), Cochin is also impugned in this writ petition.

3. The petitioner contends that he is willing to subject himself to the jurisdiction of the Income Tax Officer, ward No.4(3), Bangalore. The petitioner also undertakes that he will not raise the plea of limitation in the proceedings. The petitioner has offered his co-operation to enable the Income Tax Officer, ward NO.4(3), Bangalore to complete the assessment proceedings.

4. Ext.P9 order of transfer and Ext.P6 order

of assessment are accordingly quashed. This is of course subject to the condition that the petitioner deposits a sum of ₹ 7 lakhs with the Income Tax Officer, ward No.4(3), Bangalore within a period of one month from today.

5. The petitioner shall appear before the Income Tax Officer, ward NO.4(3), Bangalore at 11 a.m. on 26.3.2015. Every endeavour shall be made by the said Officer to complete the proceedings on or before 31.5.2015 in the circumstances. Needless to say that any proceedings initiated for imposing penalty shall also be dealt with simultaneously.

The writ Petition is disposed of.

Sd/-
V.CHITAMBARESH,
Judge.

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