IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 10790 of 2015 (W)

PETITIONER(S) :

GOMATHI AMMA, AGED 79 YEARS,
W/O.LATE APPUKUTTAN NAIR, KIZHAKKE KOPRAPPURA VEEDU,
KULAKKUDIYOORKONAM, NEMOM P.O,
THIRUVANANTHAPURAM - 695 020,
REPRESENTED BY HER POWER OF ATTORNEY HOLDER
S.RAJENDRAN NAIR, S/O.LATE SIVASANKARA PILLAI,
AGED 60 YEARS, AMRITH NIVAS, CHAPPATH, KOTTUKAL P.O,
THIRUVANANTHAPURAM-695 501.

BY ADV. SRI.AYYAPPAN SANKAR

RESPONDENT(S) :
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1. DISTRICT COLLECTOR,
   COLLECTORATE, CIVIL STATION, KUDAPPANAKKUNNU P.O,
   THIRUVANANTHAPURAM - 695 003.

2. THE SPECIAL TAHSILDAR, L.A.(N.H.),
   PMG, THIRUVANANTHAPURAM- 695 001.

3. COMMISSIONER OF INCOME TAX (TDS),
   OFFICE OF THE COMMISSIONER OF INCOME TAX, KOWDIAR,
   THIRUVANANTHAPURAM- 695 004.

R1 & R2 BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN
R3 BY ADV. SRI.K.M.V.PANDALAI, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 10790 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE PHOTOCOPY OF NOTICE OF AWARD ISSUED BY 2ND RESPONDENT ON 08.05.2014.

EXT.P2: TRUE PHOTOCOPY OF NOTICE DATED 02.09.2014 ISSUED BY 2ND RESPONDENT.

EXT.P3: TRUE PHOTOCOPY OF THE JUDGMENT DATED 16.12.2013 IN WP(C) NO.30934/2013.

EXT.P4: TRUE PHOTOCOPY OF THE REPRESENTATION DATED 25.03.2015 SUBMITTED BEFORE 1ST RESPONDENT.

EXT.P5: TRUE PHOTOCOPY OF THE REPRESENTATION DATED 25.03.2015 SUBMITTED BEFORE 2ND RESPONDENT.

EXT.P6: TRUE PHOTOCOPY OF REGISTERED POWER OF ATTORNEY DATED 28.07.1982 REGISTERED AS DOCUMENT NO.76/1982 IN BOOK IV OF NEMOM S.R.O.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.10790 of 2015

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Dated this the 1st day of April, 2015

J U D G M E N T

The petitioner, who is 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 her 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 her 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 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 her 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.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/