IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 12877 of 2014 (H)

PETITIONER:

KARUTHEDATH YOONAS, AGED 39 YEARS
S/O.KOYATTY, AREEPARAMBILTHAZHAM HOUSE,
FAROKE P.O., KOZHIKODE DISTRICT
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
SHABEER ALI P.P., AGED 38 YEARS, S/O.KUNJI MOHAMED,
RESIDING AT PYARI MANZHIL, PUVANNUR,
RAMANATTUKARA, KOZHIKODE - 673 633.

BY ADVS.SRI.K.RAMAKUMAR (SR.)
SRI.S.M.PRASANTH
SRI.M.MANOJKUMAR (CHELAKKADAN)
SMT.ASHA BABU
SMT.AMMU CHARLES

RESPONDENTS:
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1. THE SPECIAL TAHSILDAR(LAND ACQUISITION),
OFFICE OF THE SPECIAL TAHSILDAR (L.A.), KOYILANDY.

Addl.2. THE INCOME TAX COMMISSIONER
AYKHAR BHAVAN, MANANCHIRA
KOZHIKODE - 673 001.

[ADDL.R2 IS IMPLEADED AS PER ORDER DATED 16.12.2014 IN IA 17195/14.]

[THE ADDRESS OF THE ADDL.2ND RESPONDENT IS CORRECTED AS

'THE INCOME TAX COMMISSIONER (TDS)
AYKHAR BHAVAN, MANANCHIRA
KOZHIKODE - 673 001.'

AS PER ORDER DATED 02.06.2015 IN IA 6908/15.]

R1 BY GOVERNMENT PLEADER SRI. GIKKU JACOB
R2 BY ADV. SRI.P.K.R.MENON,SR.COUNSEL, GOI(TAXES)
R2 BY ADV. SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14-07-2015, ALONG WITH WPC. 12900/2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 12877 of 2014 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1	TRUE COPY OF THE CERTIFICATE DATED 08.04.2014 ISSUED BY THE VILLAGE OFFICER, RAMANATTUKARA.
EXHIBIT P2	TRUE COPY OF THE CIRCULAR DATED 13.04.2011 ISSUED BY THE MINISTRY OF RURAL DEVELOPMENT, DEPARTMENT OF LAND RESOURCES, GOVERNMENT OF INDIA.
EXHIBIT P3	TRUE COPY OF THE COMMUNICATION DATED 09.04.2014 OF THE RESPONDENT.
EXHIBIT P4	TRUE COPY OF THE COMMUNICATION DATED 24.04.2014 OF THE PUBLIC INFORMATION OFFICER, O/O THE SPECIAL TAHSILDAR, KOYILANDY.

RESPONDENT(S)' EXHIBITS

EXHIBIT R1(a)	A COPY OF COMMUNICATION DATED 21.02.2014 FROM THE OFFICE OF THE DEPUTY COMMISSIONER OF INCOME TAX (TDS), MINISTRY OF FINANCE, GOVERNMENT OF INDIA.

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

WP(C) NOs. 12877 & 12900 OF 2014

Dated this the 14th day of July, 2015

JUDGMENT

Income tax has been deducted at source from the land acquisition compensation paid to the petitioners. The petitioners assert that the property acquired is rural agricultural land. It is the case of the petitioners that no income tax is therefore payable. The circular issued by the Ministry of Rural Development is relied on.

2. It is for the petitioners to move the jurisdictional assessing officer. The petitioners can apply for refund of the tax deducted urging these contentions. The jurisdictional assessing officer can finally pronounce on the issue. Whether the property is rural agricultural land or not can be gone into by the assessing officer.

3. The amount deducted as tax shall be refunded to the petitioner in case it is found that the property acquired is rural agricultural land. Any application for refund submitted along

with the return shall be dealt with in accordance with law. Needless to say that the petitioners shall be afforded an opportunity of being heard in the exercise.

The Writ Petitions are disposed of.

V. CHITAMBARESH
JUDGE

ncd