

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

WP(C).No. 20339 of 2014 (N)

PETITIONER(S)/PETITIONERS:

- 1. BINU BABURAJ**
W/O. LATE P.R.BABURAJ, RESIDING AT 1B, ROYAL CASTLE
TIKNAR, DURASWAMI IYER ROAD, M.G.ROAD
KOCHI-682035.
- 2. KUMAR PARANAV RAJ AGED 7 YEARS**
(MINOR)
REPRESENTED BY ITS MOTHER AND NATURAL GUARDIAN BINU BABURAJ
RESIDING AT 1B, ROYAL CASTLE, TIKNAR
DURASWAMI IYER ROAD, M.G.ROAD, KOCHI-682035.

BY ADVS.SRI.K.SHRIHARI RAO
SMT.N.SHOBHA

RESPONDENT(S)/RESPONDENTS:

- 1. THE CHIEF COMMISSIONER**
CENTRAL EXCISE, CUSTOMS AND SERVICE TAX, IS PRESS ROAD
ERNAKULAM, KOCHI-682018.
- 2. THE ASSISTANT COMMISSIONER**
WORKS CONTRACT AND LUXURY TAX, 1ST CIRCLE
CLASS TOWERS, KARGIL LANE, OLD RAILWAY STATION ROAD
KOCHI-682018.
- 3. BABU XAVIER**
MANAGING DIRECTOR
M/S. ROYAL CASTLE CONSTRUCTIONS LTD.
REGISTERED OFFICE AT IIIB, MAJESTIC TOWERS 101
ELDAMS ROAD, CHENNAI-600018.

R1-R2 BY ADVS. SRI.TOJAN J.VATHIKULAM,SC,C.B. EXCISE
SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX

R3 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR

SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS

BY SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1- TRUE COPY OF THE NOTICE DATED 5-9-2013 SENT TO THE 3RD RESPONDENT BY THE PETITIONERS.**
- EXHIBIT P2- TRUE COPY OF THE REPLY NOTICE DATED 28-10-2013 SENT BY THE 3RD RESPONDENT TO THE PETITIONERS.**
- EXHIBIT P3- TRUE COPY OF THE NOTICE DATED 7-2-2014 SENT TO THE RESPONDENTS 1 AND 2.**
- EXHIBIT P4- TRUE COPY OF THE LETTER DATED 22-2-2014 OF THE COMMERCIAL TAX OFFICER, KOCHI-18 TO THE COUNSEL FOR THE PETITIONERS.**
- EXHIBIT P5- TRUE COPY OF THE REPRESENTATOIN DATED 5-3-2014 OF THE PETITIONERS TO THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 20339 of 2014

Dated this the 19th day of January, 2015

J U D G M E N T

There seems to be some dispute with respect to the collection of service tax and VAT by the 3rd respondent from the petitioners. The petitioners obviously are purchasers of apartments, which were constructed and handed over by the 3rd respondent. The petitioners' contention is that the 3rd respondent has collected certain amounts as service tax and VAT from the purchasers, which is not legal. The same would depend upon the statutory obligation as also the respective agreements executed between the 3rd respondent and the petitioners herein. There is no reason why Article 226 should be invoked to consider the prayer of refund of money. The petitioners definitely would have to approach the appropriate civil forum for the reliefs. Such remedy would be reserved. As for illegal collection of tax or non-

remittance of tax collected as per Statute the respective enactments provide for proceedings to be initiated by the respective authorities.

The Writ Petition stands closed. No costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE

jjj