

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C).No. 22664 of 2015 (G)

PETITIONER :

**V.M.JACOB,
VARIYATH HOUSE, CHERANELLOOR.P.O., KOCHI,
ERNAKULAM DISTRICT, KERALA,PIN-682 034**

**BY ADVS.SRI.K.N.SASIDHARAN NAIR
SRI.LEO GEORGE**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001**
- 2. THE NATIONAL HIGHWAYS AUTHORITY OF INDIA,
REPRESENTED BY ITS PROJECT DIRECTOR (PIU COCHIN),
PROJECT IMPLEMENTATION OFFICE, VYTTILA.P.O., KOCHI,
ERNAKULAM DISTRICT, KERALA-682 019**
- 3. THE COMMISSIONER OF INCOME TAX (TDS),
OFFICE OF THE COMMISSIONER OF INCOME TAX,
C.R.BUILDINGS, I.S.PRESS ROAD, KOCHI, KERALA-682 018**
- 4. THE COMMISSIONER OF INCOME TAX (APPEALS),
OFFICE OF THE COMMISSIONER OF INCOME TAX,
C.R.BUILDINGS, I.S.PRESS ROAD, KOCHI, KERALA-682 018**
- 5. THE DISTRICT COLLECTOR, CIVIL STATION,
KAKKANAD, KOCHI, ERNAKULAM DISTRICT,PIN-682 030**
- 6. THE SPECIAL TAHSILDAR (LAND ACQUISITION), VALLARPADAM
INTERNATIONAL CONTAINER TRANSHIPMENT TERMINAL PROJECT,
COLLECTORATE, KAKKANAD, ERNAKULAM-682 030**

**R1,R5 & R6 BY SR GOVERNMENT PLEADER SMT. M.T.SHEEBA
R2 BY ADV.SRI.SHEELA DEVI
SRI.THOMAS ANTONY
R3 & R4 BY SRI.K.M.V.PANDALAI, INCOME TAX DEPARTMENT
SRI.CHRISTOPHER ABRAHAM,SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE SALE DEED NO.3183/1/2008 REGISTERED AT THE OFFICE OF THE SUB REGISTRAR, ERNAKULAM DATED 16/07/2008
- P2 COPY OF THE TESTIMONIAL DATED 11/07/2011 ISSUED BY THE AGRICULTURAL OFFICER, CHERANELLOOR, CERTIFYING THAT THE SUBJECT PROPERTY IS AN AGRICULTURAL LAND.
- P3 COPY OF THE LIST OF STANDING TREES/CROPS IN THE PROPERTY OF THE PETITIONER, PREPARED BY THE SIXTH RESPONDENT DATED NIL
- P4 COPY OF THE CERTIFICATE OF DEDUCTION OF INCOME TAX ISSUED BY THE SECOND RESPONDENT IN FORM NO.16A DATED 15/04/2009
- P5 COPY OF THE INCOME TAX RETURN FOR THE ASSESSMENT YEAR 2009-2010 ALONG WITH APPLICATION FOR REFUND FILED BEFORE THE THIRD RESPONDENT DATED 31/7/2009
- P6 COPY OF THE NOTICE OF DEMAND ALONG WITH ASSESSMENT ORDER AND CALCULATION SHEET ISSUED FROM THE OFFICE OF THE THIRD RESPONDENT BEARING NO.PAN:AKGPJI772Q DATED 09/12/2011
- P7 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE FOURTH RESPONDENT DATED 09/01/2012.
- P8 COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WP(C).NO.20572 OF 2013 DATED 23/08/2013.

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 22664 of 2015

Dated this the 28th day of July, 2015

J U D G M E N T

The petitioner had approached the 4th respondent in appeal as against Ext.P6 assessment order. The appeal is pending since, 2012. Petitioner submits that the issue is covered in favour of him as per the judgment of this Court in WP(C) No.20572/2013. The issue pertains to deduction of income tax at source on sale of agriculture land.

2. Considering the facts and circumstances following directions are issued:

- (i) The appellate authority is directed to dispose of Ext.P7 appeal within a period of 3 months, after notice to the petitioner.
- (ii) It is made clear that, before taking a decision Ext.P8 judgment has adverted to by the appellate authority.
- (iii) Petitioner shall produce a copy of this judgment along with a copy of this writ petition before the appellate authority.

This writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.