IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 29044 of 2015 (E)

PETITIONER(S) :

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1. P.SUNILKUMAR, AGED 46 YEARS,
   S/O.P.MADHAVAN NAIR, SABARI MILLENIUM IMPEX PRIVATE LIMITED,
   KOLLAM WEST VILLAGE, KOLLAM.

2. K.SUBHADRAMMA, AGED 62 YEARS,
   W/O.LATE BALAN PILLAI, RESIDING AT 'OMKARAM'
   KANKATHU NAGAR, KANKATHUMUKKU, THIRUMULLAVARAM P.O.,
   KOLLAM- 691 012.

3. DR.RARI CHANDRAN, AGED 40 YEARS,
   S/O.BALAKRISHNA PILLAI, RESIDING AT 'OMKARAM'
   KANKATHU NAGAR, KANKATHUMUKKU, THIRUMULLAVARAM P.O.,
   KOLLAM- 691 012.

4. SHAM B., AGED 45 YEARS,
   S/O.BALAN PILLAI, RESIDING AT 'LAVANYA', M.G.STREET,
   THAMARAKULAM, KOLLAM- 691 001.

5. SHEELA, AGED 48 YEARS,
   D/O.BALAN PILLAI, RESIDING AT 'SOUPARNIKA',
   HOUSE NO.15, PUNNATHADA NAGAR, ANCHUKALLUMMODU,
   THIRUMULLAVARAM P.O., KOLLAM- 691 012.

6. SHIBU.B, AGED 43 YEARS,
   S/O.BALAN PILLAI, EKAPARNIKA, M.K.R.A.74,
   THIRUMULLAVARAM P.O., KOLLAM- 691 012.

BY ADV. SRI.SAJU J PANICKER

RESPONDENT(S) :

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1. STATE OF KERALA,
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM- 695 001.

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2. **THE DISTRICT COLLECTOR,**
   KOLLAM, PIN- 691 001.

3. **THE TAHASILDAR,**
   LAND ACQUISITION NO.1, KOLLAM, PIN- 691 001.

4. **THE SECRETARY TO GOVERNMENT,**
   DEPARTMENT OF PORTS, GOVERNMENT OF KERALA,
   THIRUVANANTHAPURAM, PIN- 695 001.

5. **THE DIRECTOR,**
   DEPARTMENT OF PORTS, GOVERNMENT OF KERALA,
   THIRUVANANTHAPURAM, PIN- 695 001.

6. **THE JOINT COMMISSIONER OF INCOME TAX,**
   AYAKAR BHAVAN, NEAR KARBELA JUNCTION,
   RAILWAY STATION ROAD, KOLLAM.

R1 TO R5 BY GOVERNMENT PLEADER SRI.LIJU.V.STEPHEN
R6 BY ADV. SRI.K.M.V.PANDALAI, INCOME TAX DEPARTMENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 29044 of 2015 (E)
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APPENDIX

PETITIONER(S)' EXHIBITS :
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EXHIBIT P1: THE TRUE COPY OF THE G.O(RT)NO.3085/14 RD DATED 05.07.2014 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P2: THE TRUE COPY OF THE D.L.P.C PROCEEDINGS DATED 20.08.2014 IN THE PRESENCE OF THE 2ND RESPONDENT.

EXHIBIT P3: THE TRUE COPY OF THE CONSENT LETTER GIVEN BY THE 1ST PETITIONER BEFORE THE D.L.P.C.

EXHIBIT P4: THE TRUE COPY OF THE CIRCULAR NO.25598/B3/15/REV DATED 26.05.2015 OF THE 1ST RESPONDENT.

EXHIBIT P5: THE TRUE COPY OF THE G.O.(RT)NO.402/2015/F & D DATED 27.05.2015 ISSUED BY THE GOVERNMENT OF KERALA.

EXHIBIT P6: THE TRUE COPY OF THE AGREEMNTS ENTERED INTO BETWEEN THE PETITIONERS AND 2ND AND 4TH RESPONDENT.

EXHIBIT P7: THE TRUE COPY OF THE NOTICE DATED 14.09.2015 ISSUED TO THE PETITIONERS 2 TO 6.

EXHIBIT P8: THE TRUE COPY OF THE NOTICE DATED 14.09.2015 ISSUED TO THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 29044 of 2015

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Dated this the 30th day of September, 2015

JUDGMENT

The petitioners in the writ petition seek a direction to the respondents not to deduct tax at source under Section 194 LA of the Income Tax Act while making payments of the compensation amounts due to them in respect of lands acquired by the respondents. The right of the petitioner to receive the compensation amounts, without having any deductions effected therefrom in terms of Section 194 LA of the Income Tax Act, has already been decided in their favour by a judgment of this Court in W.P.(C) No.5607 of 2014. Accordingly, the present writ petition is allowed by declaring that the revenue authorities shall not deduct any tax at source under Section 194 LA, from compensation amounts payable to the petitioner. It is made clear however that the deduction under Section 194 IA, wherever applicable, can be effected by the revenue authorities.

Sd/-

A.K.JAYASANKARAN NAMBIAR

JUDGE

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