IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 29896 of 2015 (J)

PETITIONER :

M/S. VKL RESORTS INDIA PRIVATE LIMITED
ANJANA COMPLEX, KUNDANNOOR, KOCHI-682 304
REPRESENTED BY ITS DIRECTOR SHAJI K. MATHEW.

BY ADVS.SRI.M.MOHAMED NAVAZ
SRI.T.PSAJAN
SRI.P.SANTHOSH KUMAR

RESPONDENT(S) :
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1. THE COMMISSIONER OF INCOME TAX (TDS)
OFFICE OF THE COMMISSIONER OF INCOME TAX, KOCHI
C.R.BUILDINGS, I.S.PRESS ROAD, KOCHI-18.

2. THE INCOME TAX OFFICER WARD 4(1)
C.R.BUILDING, I.S.PRESS ROAD, ERNAKULAM-682 018.

R1 & R2 BY ADV. SRI.K.M.V.PANDALAI, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 29896 of 2015 (J)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1 : COPY OF THE CHALLAN DTD.8.12.2014.

EXT. P2 : COPY OF THE FORM NO.26 QB.

EXT. P3 : COPY OF THE REPRESENTATION TO THE 2ND RESPONDENT DTD.19.12.2013.

EXT. P4 : COPY OF THE LETTER TO THE PUNJAB NATIONAL BANK DTD.21.12.2013.

EXT. P5 : COPY OF THE MAIL TO THE INCOME TAX DEPARTMENT DTD.31.12.2013.

EXT. P6 : COPY OF THE REPLY DTD.1.1.2014.

EXT. P7 : COPY OF THE CHALLAN DTD.17.12.2013.

EXT. P8 : COPY OF THE FORM NO.26 QB.

EXT. P9 : COPY OF THE SALE NO.151/2014 OF ALAPPUZHA, SRO.

RESPONDENT(S)' EXHIBITS :

EXT. R1(a) COPY OF THE ACKNOWLEDGEMENT OF TT RETURN DATED 7-8-2014.

EXT. R1(b) COPY OF INTIMATION OF REFUND.

//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.29896 of 2015

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Dated this the 20th day of November 2015

JUDGMENT

The petitioner had approached this Court aggrieved by the inaction on the part of the respondents in refunding to him an amount, that was deducted by him at source from payments to a vendor, in respect of property purchased from the said vendor. It is the case of the petitioner in the writ petition that the payment, after deduction of TDS, was effected by a sister concern of the petitioner and on realising the mistake, the petitioner immediately paid the amount after deduction of TDS again to the vendor. The case of the petitioner is essentially that there were two deductions made, of tax at source, from payments that were due to the vendor, one by the petitioner and one by the sister concern. In the writ petition the claim is essentially for a refund of the tax amount deducted source from payments made to the vendor to the extent that there has been a duplication in the said deduction.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Standing Counsel appearing on behalf of the Income Tax department.

The learned standing counsel for the respondents on instructions would submit that the amounts that were deducted by the petitioner and the sister concern of the petitioner by way of tax in terms of the Income Tax Act were given credit in the assessment of the vendor and the vendor has also been granted amounts by way of refund pursuant to the assessment completed on the vendor. Taking note of the said submission of counsel for the respondents, I am of the view that, inasmuch as the respondents have already given credit to the payment of tax deducted from the payments made to the vendor, and the vendor has since received refund of excess amounts paid towards tax, by him or on his behalf, from the income tax department, the remedy of the petitioner to seek a refund of the excess amounts paid, would lie in appropriate civil proceedings preferred against the vendor. Thus, without prejudice to the right of the petitioner to approach an appropriate forum for redressal of his grievance against the vendor, the present writ petition is closed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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