IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 36195 of 2015 (Y)

PETITIONER(S):
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1. AYISHA,
   D/O.VELUTHEDATHU AMMU, W/O. LATE ABDUL KHADER,
   PUTHENPURA PARAMBIL, PALLILAMKARA, KALAMASSERRY,
   NOW RESIDING AT AYYAMBARATH HOUSE, PERINGAZHA KARA,
   HMT COLONY P.O, KALAMASSERRY- 683 503

2. ABDUL RASAK, S/O. ABDUL KHADER, AGED 49 YEARS,
   AYYAMBARATH HOUSE, CHIRAKKALPARAMBU,
   PALLILAMKARA, KALAMASSERRY-683 503

3. ABDUL GHOBHAR, S/O. ABDUL KHADER, AGED 44 YEARS,
   AYYAMBARATH HOUSE, CHIRAKKALPARAMBU,
   PALLILAMKARA, KALAMASSERRY -683 503

4. ABDUL SALAM, S/O. ABDUL KHADER,AGED 28 YEARS,
   AYYAMBARATH HOUSE, CHIRAKKALPARAMBU,
   PALLILAMKARA, KALAMASSERRY -683 503

5. ABDUL JABBAR, S/O. ABDUL KHADER,AGED 36 YEARS,
   AYYAMBARATH HOUSE, CHIRAKKALPARAMBU,
   PALLILAMKARA, KALAMASSERRY- 683 503

6. SUBAIDA, D/O. ABDUL KHADER, AGED 47 YEARS,
   AYYAMBARATH HOUSE, CHIRAKKALPARAMBU,
   PALLILAMKARA, KALAMASSERRY -683 503

7. ZEENATH, D/O.ABDUL KHADER, AGED 34 YEARS,
   AYYAMBARATH HOUSE, CHIRAKKALPARAMBU,
   PALLILAMKARA, KALAMASSERRY -683 503

   BY ADVS.SRI.P.A.ABDUL JABBAR
   SRI.MUHAMMED SHAFFI
   SRI.ANAND PARATHARA

RESPONDENT(S):
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1. THE DISTRICT COLLECTOR,
   COLLECTORATE, KAKKANAD, ERNAKULAM,
   PIN -682 030

2. THE SPECIAL TAHASILDAR (LA),
   NO. 111, KOCHI INTERNATIONAL AIRPORT, NEDUMBASSERY,
   NAYATHODU P.O, ERNAKULAM DISTRICT, PIN -683 572

3. THE COMMISSIOENR OF INCOME TAX (TDS),
   OFFICE OF THE COMMISSIONER OF INCOME TAX,
   C.R BUILDINGS, I.S PRESS ROAD, KOCHI, PIN- 18

R1 & R2 BY GOVERNEMNT PLEADER SRI.R.RANJITH
R3 BY SRI.K.M.V.PANDALAI, INCOME TAX DEPARTMENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 36195 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 **TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER, DATED 26/11/2015.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.36195 OF 2015 (Y)

Dated this the 1st day of December, 2015

J U D G M E N T

The petitioner in the writ petition seeks 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 the 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 IT Act, has already been decided in their favour by a judgment of this Court in W.P.(C). No.5607/2014. 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/01.12.15