IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

WP(C).No. 37472 of 2015 (H)

PETITIONER(S):

MUHAMMED ASHRAF, AGED 53 YEARS,
S/O.ERAMU, KONDETH HOUSE, KANJIPPURA,
POST KARIPPOL, ATHAVANAD, MALAPPURAM DISTRICT.

BY ADV. SRI.R.KRISHNAKUMAR (CHERTHALA)

RESPONDENT(S):
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1. **TAHASILDHAR, TALUK OFFICE,**
   MTIRUR, MALAPPURAM DISTRICT-676101.

2. **DISTRICT COLLECTOR, MALAPPURAM DISTRICT,**
   COLLECTORATE, MALAPPURAM-676505.

3. **ASSISTANT COMMISSIONER OF INCOME TAX,**
   OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX,
   MALAPPURAM-676505.

R1 & 2 BY GOVERNMENT PLEADER
R3 BY SRI.K.M.V.PANDALAI, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 37472 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 **TRUE COPY OF THE DOCUMENT NO.436/20 OF SRO.KUTTIPURAM DATED 28/1/10**

P2 **TRUE COPY OF THE LAND TAX RECEIPT DT.12/8/15 ISSUED BY VILLAGE OFFICE, THAVANAD**

P3 **TRUE COPY OF THE CERTIFICATE ISSUED BY THE VILLAGE OFFDICER, ATHAVANAD DT.9/9/15**

P4 **TRUE COPY OF THE NOTICE ISSUED BY THE SPECIAL TAHASILDHAR LA (GENERAL), TIRUR DT.22/7/15**

P5 **TRUE COPY OF THE NOTICE NO.B.812/13 DT.NIL IN FORM NO.12 ISSUED BY THE ACQUISITION OFFICER.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 37472 of 2015

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Dated this the 10th day of December, 2015

JUDGMENT

The petitioner, who is entitled to compensation in terms of the Land Acquisition Act, has approached this Court seeking a direction to the respondents not to deduct tax at source in terms of Section 194 LA of the Income Tax Act. It is the case of the petitioner that the compensation amounts were payable to him pursuant to a negotiated settlement, and hence, it would not be a payment that attracted the provisions of Section 194 LA of the Income Tax Act for the purposes of tax deducted at source. I note that, although, the issue as to whether, in such cases, the deduction of tax under Section 194 LA of the Income Tax Act has to be effected, has already been decided in favour of persons like the petitioner by the judgment of this Court in WP(C) No. 5607 of 2014, in the instant case, the tax amounts have already been deducted and paid over to the Income Tax Department. In that view of the matter, I feel the remedy of the petitioner now lies in filing returns under the Income Tax Act for the assessment year in question, and claiming credit of the tax deductions effected by the respondents while paying the compensation amount to him, for the year in question. If the petitioner files the returns under the Income Tax Act, the issue shall be considered by the assessing authority under the said Act and the benefit of the judgment in WP(C) No.5607 of 2014 shall be extended to the petitioner as well.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /10.12.15