HON'BLE SRI JUSTICE S.V. BHATT

Writ Petition No.4772 of 2009

ORDER:

Heard Mr. L. Prabhakar Reddy for petitioners and the learned Government Pleader (Land Acquisition) for respondents.

2. The petitioners challenge the action of 2nd respondent in deducting 11.33% towards income tax from out of the amount awarded to petitioners as compensation under the Land Acquisition Act, 1894 (for short 'the Act'), as illegal, arbitrary and contrary to Section 194-A of the Income Tax Act and Section 24 of the Act.

3. The respondents acquired residential houses of petitioners under Pulichinthala Project, Unit-IV, Kodada, Nalgonda District. The compensation was paid for acquiring lands and also for the structures existing on the acquired land. In the present writ petition, the petitioners challenge the action of respondents in proposing to deduct income tax from the compensation paid to the structures in existence.

4. Learned counsel for petitioners places strong reliance on the decisions in '*C. Nanda Kumar vs. union of India*[1]', '*The Special Tahsildar & Land Acquisition Officer vs. Dandu Saraswatamma & others*[2]', *Bikram Singh vs. Land Acquisition Collector*[3]', and *Rama Bai vs. Commissioner of Income Tax*[4]', to contend that firstly deduction of tax at source is illegal and secondly, if the interest is correspondingly spread to the periods for which the interest is paid, the petitioners are not under obligation to pay any tax and therefore, the deduction is illegal and unsustainable.

5. The Government Pleader places on record the communication dated 17.08.2017 addressed by 2nd respondent together with enclosures evidencing

[1] 2017(3) ALD 726 (DB)
[2] 1992(2) ALT 267
[3] (1997) 10 SCC 243
[4] 1990(Supp.) SCC 699

payment of compensation to petitioners and also depositing the sums deducted towards income tax with State Bank of India. Therefore, according to her, the petitioners after receiving compensation subject to deduction cannot pray for the relief, however, are entitled to get TDS certificate, if the certificate is not issued as on date.

6. I have perused the communication dated 17.08.2017 and the accompanying annexures. The petitioners by accepting the compensation subject to tax deduction, now have to workout prayers by obtaining TDS certificate from the respondents and claim refund, if they are entitled to, by placing reliance upon the decisions referred to above.

7. The writ petition, having regard to these circumstances, is disposed of by this order.

(a) The respondents are directed to issue TDS certificate to petitioners, if not already issued, within two months from the date of receipt of a copy of this order;

(b) Thereafter, the petitioners are given liberty to file returns and seek appropriate relief from the Assessing Officer, in accordance with the provisions of the Income Tax Act; and

(c) The petitioners are also given liberty to apply for issuing TDS certificate, by enclosing a copy of this order within four weeks from the date of receipt of a copy of this order.

No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

S.V.BHATT, J

Date: 21.08.2017
BSS

HON'BLE SRI JUSTICE S.V. BHATT

32

Writ Petition No.4772 of 2009

Date: 21.08.2017

BSS