



2026:KER:49036

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR. JUSTICE BASANT BALAJI

MONDAY, THE 6<sup>TH</sup> DAY OF JULY 2026 / 15TH ASHADHA, 1948

WA NO. 177 OF 2017

AGAINST THE JUDGMENT DATED IN WPC NO.24409 OF 2013 OF HIGH

COURT OF KERALA

APPELLANT/RESPONDENT:

THE COMMERCIAL TAX OFFICER  
(WORKS CONTRACT & LUXURY TAX),  
ALAPPUZHA, PIN-688005

BY GOVERNMENT PLEADER ADV.SUDHISH KUMAR S.

RESPONDENT/PETITIONER:

ESCAPADE REPORTS PRIVATE LIMITED  
CASINO HOTEL, WILLINGDON ISLAND, COCHIN-682003,  
REPRESENTED BY ITS DIRECTOR MR. MICHAEL DOMINIC

BY ADVS.  
SRI.V.ABRAHAM MARKOS  
SHRI.ABRAHAM JOSEPH MARKOS  
SRI.GOVIND VIJAYAKUMARAN NAIR  
SRI.HARAN THOMAS GEORGE  
SRI.ISAAC THOMAS

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 06.07.2026,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

Dated this the 6<sup>th</sup> day of July, 2026

**Devan Ramachandran, J.**

The sole question in this case is whether the provisions of Section 10(2) of the Kerala Tax on Luxuries Act, 1976, ("Act" for short), apply retrospectively or prospectively. This issue has been raised for consideration because, with respect to an assessment for the year 1999-2000, a demand for interest has been made under the afore Section.

2. Admittedly, this Section came into force only on 01.04.2009; and it was argued by the assessee and that, therefore, they cannot be burdened under it. This has been approved by the learned Single Judge.

3. The learned Special Government Pleader-Sri.Sudhish Kumar, however, submitted that the learned Single Judge is in error because, when one



closely reads Section 10(2) of the "Act", it becomes irresistible that its operation extends even to earlier assessment years. He contended that, when the said section stipulates that, if a dealer fails to include any charges taxable under the "Act" with respect to any luxury provided, in any return filed, or where any charges or any other taxable amounts has escaped assessment, interest shall accrue on it, or such other amount, with effect from the date on which such tax would have fallen due for payment, it becomes ineluctable that it operates retrospectively also.

4. Sri.Abraham Joseph Markos, learned Senior counsel instructed by Sri. Govind Vijayakumaran Nair-appearing for the first respondent assessee, however, submitted that the learned Single Judge has correctly concluded that the provisions of Section 10(2) cannot have any prospective effect; pointing out that, in fact, such view is based on



an earlier judgment of this Court in **Casino Hotel v. State of Kerala [2007 (15) KTR 485]**- which has been approved by the learned Division Bench, against which the Revenue did not make further appeal before the Honourable Supreme Court. He argued that, when the situation is so, this appeal itself becomes untenable and not maintainable.

5. We find great force in the afore submissions of the learned Senior Counsel because, **Casino Hotel** (supra) has declared it without ambiguity that, interest under Section 10(2) of the "Act" cannot be demanded for a period which is prior to it. In fact, the learned Single Judge has extracted the holdings therein, in paragraph 6 of the impugned judgment: and we therefore refrain from doing so.

6. When it is admitted, rather unequivocally, that **Casino Hotel** (supra) has attained finality, we fail to fathom how the Revenue chose to file



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this appeal, without doing so against the judgment, on which it relies upon exclusively.

In such circumstances, we obtain no cause to intervene and therefore, dismiss the appeal.

Sd/-

**DEVAN RAMACHANDRAN**  
**JUDGE**

Sd/-

**BASANT BALAJI**  
**JUDGE**

scl



APPENDIX OF WP(C) NO. 18833 OF 2017

**PETITIONER EXHIBITS**

- EXHIBIT P1 :** TRUE COPY OF JUDGMENT REPORTED IN (2007) 15 KTR 485 (KER) DATED 23RD JULY 2007.
- EXHIBIT P2 :** TRUE COPY OF JUDGMENT DATED 9-6-2016 PASSED BY THIS HON'BLE COURT IN WPC.NO.24409/2013.
- EXHIBIT P3 :** TRUE COPY OF THE ASSESSMENT ORDER DATED 5-12-2009 PASSED BY THE 1ST RESPONDENT.
- EXHIBIT P4 :** TRUE COPY OF JUDGMENT DATED 21-8-2013 PASSED BY THIS HONOURABLE COURT IN WPC.NO.6897/2010.
- EXHIBIT P5 :** TRUE COPY OF DEMAND NOTICE DATED 15-5-2017 ISSUED BY THE 1ST RESPONDENT.