Joe Antony vs Income Tax Officer

ID: F2J-C-2472 **Court:** Kerala High Court
Case: WP(C) Nos.3699 & 15438 OF 2026 **Date:** 2026-07-07

[Cites 3, Cited by 0] Kerala High Court Joe Antony vs Income Tax Officer on 7 July, 2026 2026:KER:49532 WP(C) Nos.3699 & 15438 OF 2026 1 IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. TUESDAY, THE 7TH DAY OF JULY 2026 / 16TH ASHADHA, 1948 WP(C) NO. 3699 OF 2026 PETITIONER/S: JOE ANTONY, AGED 33 YEARS 11/246, ARIMBOOR HOUSE, AMMADAM, S.O PARALAM THRISSUR, PIN - 680563 BY ADVS. SMT.K.KRISHNA SHRI.ACHYUTH MENON SHRI. V. HARISANKAR SMT.ANNA ANTO RESPONDENT/S: 1 INCOME TAX OFFICER, INCOME TAX DEPARTMENT, WARD 1(1), AAYAKAR BHAVAN, MUNICIPAL OFFICE ROAD, SAKTHANTHAMPURAN NAGAR, THRISSUR, PIN - 680001 2 THE ADDITIONAL/JOINT/DEPUTY/ASSISTANT COMMISSIONER OF INCOME TAX/INCOME TAX OFFICER ASSESSMENT UNIT, NATIONAL FACELESS ASSESSMENT CENTRE (NFAC), INCOME TAX DEPARTMENT, NEW DELHI, PIN - 110001 3 THE REGISTRAR, KING GEORGE'S MEDICAL UNIVERSITY,SHAH MINA ROAD, CHOWK, LUCKNOW, UTTAR PRADESH, PIN - 226003 BY ADVS. SRI.G.KEERTHIVAS SHRI.HARIKUMAR G. (GOPINATHAN NAIR) THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07.07.2026, ALONG WITH WP(C).15438/2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: 2026:KER:49532 WP(C) Nos.3699 & 15438 OF 2026 2 IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. TUESDAY, THE 7TH DAY OF JULY 2026 / 16TH ASHADHA, 1948 WP(C) NO. 15438 OF 2026 PETITIONER/S: NAHAS KAKKATTUMMAL AGED 32 YEARS SHAMNA MANZIL HOUSE, UNNIKULAM P.O., UNNIKULAM KOZHIKODE, PIN - 673574 BY ADVS. SMT.K.KRISHNA SHRI.ACHYUTH MENON SMT.PARVATHY MENON SHRI. V. HARISANKAR SMT.ANNA ANTO RESPONDENT/S: 1 INCOME TAX OFFICER INCOME TAX DEPARTMENT, WARD 1(1), RANGE 31 AAAYAKAR BHAVAN, MANANCHIRA KOZHIKODE, PIN - 673574 2 THE ADDITIONAL/JOINT/DEPUTY/ASSISTANT COMMISSIONER OF INCOME TAX/INCOME TAX OFFICER INCOME TAX DEPARTMENT, ASSESSMENT UNIT, NATIONAL FACELESS ASSESSMENT CENTRE (NFAC), INCOME TAX DEPARTMENT NEW DELHI, PIN - 110001 3 THE REGISTRAR KING GEORGE'S MEDICAL UNIVERSITY, SHAH MINA ROAD, CHOWK, LUCKNOW, UTTAR PRADESH, PIN - 226003 BY ADVS. SHRI.G.KEERTHIVAS, ADDITIONAL STANDING COUNSEL, INCOME TAX DEPARTMENT SHRI.HARIKUMAR G. (GOPINATHAN NAIR), ADDITIONAL STANDING COUNSEL, INCOME TAX DEPARTMENT THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON ON 07.07.2026, ALONG WITH WP(C).3699/2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: 2026:KER:49532 WP(C) Nos.3699 & 15438 OF 2026 3 JUDGMENT In both these cases, the petitioners are assessees under the Income Tax Act. The challenge raised in both these writ petitions are against the orders of assessment passed against the petitioners, wherein, the exemption claimed by the petitioners under Sec.10(16) of the Income Tax Act was declined. According to the petitioners, both of them are students of Medical Post Graduation courses, who are entitled to get stipend from the institution where they are undergoing studies. According to the petitioners, the amounts which were assessed as income in the impugned assessment orders, were infact, the stipends received by them, for carrying out the post graduate studies in the said establishment and therefore, liable to be exempted under Sec.10(16) of the Income Tax Act. The challenge raised in these writ petitions are against those orders, and according to the petitioners, the assessment orders suffer from blatant illegality, which warrant interference by this Court under Article 226 of Constitution of India.

2. I have heard the learned counsel appearing for the petitioners and the learned standing counsels for the respondents. 2026:KER:49532 WP(C) Nos.3699 & 15438 OF 2026 4

3. On carefully going through the contents of the impugned assessment orders, it is seen that, a detailed inquiry has been conducted by the assessing authority before entering into the conclusion that the amounts referred to above are to be treated as income assessable for tax. Even while, accepting the legal proposition that the stipend of Medical PG student is liable to be exempted from payment of tax, in the light of Sec.10(16) of the Income Tax Act, the authority, based on the records that they could collect during the course of inquiry, entered into factual findings to the effect that, the character of the income received by the petitioners is not that of a stipend, but salary. Certain communications/reports of educational authorities were also relied on and the returns submitted by the petitioners as well as the TDS deducted, were also formed the basis of said finding.

4. Thus, even-though the contention of the petitioners that the income by way of stipend is liable to be exempted by virtue of Sec.10(16) of the Income Tax Act is to be accepted, the factual findings entered into by the assessing authorities as to the nature of the income, to the effect that, it has all the characteristics of a salary, cannot be ignored. The same being a factual dispute, it cannot be resolved in a writ petition. Therefore, exemption claimed by the petitioners under Sec.10(16) of the Income Tax Act, can be availed by the petitioners only if it is shown that, the 2026:KER:49532 WP(C) Nos.3699 & 15438 OF 2026 5 income falls within expression "stipend", and the question as to whether the income received by the petitioners is stipend or not, is a question of fact. Therefore, even-while accepting the proposition urged by the learned counsel for the petitioners as referred to above, in the light of factual dispute, the issue involved in this writ petition cannot be resolved invoking the powers of this Court under Article 226 of Constitution of India. In such circumstances, this writ petition is disposed of, relegating the petitioners to invoke the statutory remedies against the impugned assessment orders. In order to facilitate the petitioners to invoke such remedies, it is ordered that, the coercive proceedings based on the impugned assessment orders shall be kept in abeyance for a period of two months. Further, the period from the date of filing of these writ petitions i.e, 24.01.2026 in W.P.(C) No. 3699 of 2026 and 17.04.2026 in W.P.(C). No. 15438 of 2026, till the date of issuance of the certifiied copies of these judgments, shall be excluded while computing the period of limitation for filing the statutory appeal. Sd/- ZIYAD RAHMAN A.A. SM/07.07 JUDGE 2026:KER:49532 WP(C) Nos.3699 & 15438 OF 2026 6 APPENDIX OF WP(C) NO. 3699 OF 2026 PETITIONER EXHIBITS Exhibit P1 COPY OF THE RELEVANT PAGES OF THE RETURN OF INCOME FOR THE ASSESSMENT YEAR 2024-25 OF THE PETITIONER DTD. 06-07-2024 Exhibit P2 COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT DTD. 24-06-2025 Exhibit P3 COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT DTD. 07-07-2025 Exhibit P4 COPY OF REPLY FILED BY THE PETITIONER DTD. 19-07- 2025 Exhibit P5 COPY OF CERTIFICATE ISSUED BY THE 3RD RESPOLNDENT DTD. 08-10-2022 Exhibit P6 COPY OF FORM NO.16 ISSUED BY THE 3RD RESPONDENT DTD. 15-07-2024 Exhibit P7 COPY OF JOINING REPORT OF THE PETITIONER TO THE 3RD RESPONDENT DTD. 21-02-2022 Exhibit P8 COPY OF SHOW CAUSE NOTICE ISSUED BY THE 2ND RESPONDENT DTD. 22-10-2025 Exhibit P9 COPY OF REPLY FILED BY THE PETITIONER DTD. 06-11- 2025 Exhibit P10 COPY OF E-PROCEEDINGS RESPONSE ACKNOWLEDGEMENT DTD. 14-11-2025 Exhibit P11 COPY OF ORDER ISSUED BY THE 2ND RESPONDFENT FOR THE YEAR 2024-25 DTD. 20-11-2025 Exhibit P12 COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT DTD. 20-11-2025 Exhibit P13 COPY OF THE RELEVANT PAGES OF THE ORDER

OF SEAT ALLOTMENT FOR NEET-PG-2021 IN THE 3RD RESPONDENT INSTITUTION DTD. 03-02-2022 Exhibit P14 COPY OF THE ORDER ISSUED BY THE HEALTH & FAMILY WELFARE DEPARTMENT DTD. 04-07-2024 Exhibit P15 COPY OF PUBLIC NOTICE ISSUED BY THE NATIONAL MEDICAL COMMISSION POLICY AND CO-ORDINATION DIVISION, GOVERNMENT OF INDIA DTD. 11-07-2025 Exhibit P16 COPY OF RELEVANT ENGLISH PORTION OF THE NOTIFICIATION ISSUED BY NATIONAL MEDICAL COMMISSION, NEW DELHI DTD. 29-12-2023 Exhibit P17 COPY OF LETTER ISSUED BY THE CHIEF COMMISSIONER OF INCOME TAX (TDS) BENGALURU DTD. 03-02-2017 RESPONDENTS' EXHIBITS:NIL TRUE COPY P.A.TO JUDGE 2026:KER:49532 WP(C) Nos.3699 & 15438 OF 2026 7 APPENDIX OF WP(C) NO. 15438 OF 2026 PETITIONER EXHIBITS Exhibit P1 COPY OF INCOME TAX RETURN ACKNOWLEDGEMENT OF THE PETITIONER DTD. 07-07-2024 Exhibit P2 COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT DTD. 22- 07-2025 Exhibit P3 COPY OF E-PROCEEDINGS RESPONSE ACKNOWLEDGEMENT EXCLUDING ANNEXURES DTD. 05-08-2025 Exhibit P4 COPY OF SEAT ALLOTMENT ORDER ENTAILING THE TERMS AND CONDITIONS DTD. 25-02-2022 Exhibit P5 COPY OF CERTIFICATE ISSUED BY THE 3RD RESPONDENT DTD. 21-05-2025 Exhibit P6 COPY OF FORM NO.16 CERTIFICATE NO. AKHDVCA ISSUED BY THE INCOME TAX DEPARTMENT DTD. 15-06-2024 Exhibit P7 COPY OF JOINING REPORT OF THE PETITIONER BEFORE THE 3RD RESPONDENT UNIVERSITY DTD. 24-02-2022 Exhibit P8 COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT DTD. 31-10-2025 Exhibit P9 COPY OF E-PROCEEDINGS RESPONSE ACKNOWLEDGEMENT EXCLUDING ANNEXURES DTD. 14-11-2025 Exhibit P10 COPY OF SHOW CAUSE NOTICE ISSUED BY THE 2ND RESPONDENT DTD. 29-12-2025 Exhibit P11 COPY OF E-PROCEEDINGS RESPONSE ACKNOWLEDGEMENT EXCLUDING ATTACHMENTS DTD. 05-01-2026 Exhibit P12 COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DTD. 30- 01-2026 Exhibit P13 COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT DTD. 30- 01-2026 Exhibit P14 COPY OF REPLY LETTER SUBMITTED BY THE PETITIONER DTD. 24-02-2026 Exhibit P15 COPY OF ORDER ISSUED BY THE HEALTH &(FAMILY WELFARE DEPARTMENT OF GOVERNMENT OF KERALA DTD. 04-07-2024 Exhibit P16 COPY OF THE PUBLIC NOTICE ISSUED BY THE GOPVERNMENT OF INDIA, NATIONAL MEDICAL COMMISSION POLICY AND CO- ORDINATION DIVISION DTD. 11-07-2025 Exhibit P17 COPY OF THE NOTIFICATION F. NO. CDN-19012/5/2023- COORD-NMC ISSUED BY NATIONAL MEDICAL COMMISSION (NMC) DTD. 29-12-2023 Exhibit P18 COPY OF LETTER ISSUED BY THE CHIEF COMMISSIONER OF INCOME TAX (TDS), BENGALURU DTD. 03-02-2017 RESPONDENTS' EXHIBITS:NIL TRUE COPY P.A.TO JUDGE