

Biju Markose Vs. Intelligence Officer

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Court : Kerala

Decided On : Oct-07-2013

Judge : Honourable Mr.Justice V.Chitambaresh

Appellant : Biju Markose

Respondent : intelligence Officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.CHITAMBARESH MONDAY, THE 7TH DAY OF OCTOBER 2013 15TH ASWINA, 1935 WP(C).No. 21479 of 2013 (H) ----- PETITIONER(S): ----- BIJU MARKOSE OJES BUILDERS, A.M. ROAD, NELLIKUZHI.P.O. KOTHAMANGALAM, ERNAKULAM DISTRICT. BY ADVS.SRI.HARISANKAR V.MENON SMT.MEERA V.MENON RESPONDENT(S): ----- 1. INTELLIGENCE OFFICER(IB) DEPARTMENT OF COMMERCIAL TAXES MATTANCHERRY ATMINI CIVIL STATION, ALUVA-683101.

2. STATE OF KERALA REPRESENTED BY SECRETARY TO GOVERNMENT TAXES DEPARTMENT, KERALA GOVT. SECRETARIAT THIRUVANANTHAPURAM-695001. BY SR. GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 0710-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: DCS WP(C).No. 21479 of 2013 (H)

----- APPENDIX PETITIONER(S)' EXHIBITS

P1. COPY OF IDENTITY CARD OF THE PETITIONER ISSUED BY THE GOVT. OF KERALA. P1A. COPY OF AGREEMENT ENTERED BETWEEN PETITIONER AND M/S. RAJEEV TRAVELS, CHERUTHURUTHY. P2. COPY OF INVOICE NO. 30959 OF M/S. MATHA MILL STORES. P2(a). COPY OF INVOICE NO. 9728 OF M/S. KUMMENCHERY STEELS. P2(b). COPY OF INVOICE NO. 1022087 OF M/S. INDUSTRIAL DISTRIBUTORS, & AGENCIES. P2(c) COPY OF INVOICE NO. 1021816 OF M/S. INDUSTRIAL DISTRIBUTORS AND AGENCIES. P2(d) COPY OF INVOICE NO.022020 OF M/S. INDUSTRIAL DISTRIBUTORS AND AGENCIES. P2(e) COPY OF INVOICE NO. 2788 OF M/S. GENERAL SALES AND AGENCIES. P2(f) COPY OF INVOICE NO. 2057 OF M/S. METTALIEDS ERNAKULAM. P3. COPY OF SHOP INSPECTION REPORT ISSUED BY THE INTELLIGENCE OFFICER, ERNAKULAM. P4. COPY OF SHOP INSPECTION REPORT ISSUED BY THE INTELLIGENCE OFFICER, ERNAKULAM. P5. COPY OF RECEIPT ISSUED BY THE SALES TAX INSPECTOR P6. COPY OF NOTICE ISSUED BY THE1T RESPONDENT. P6A. COPY OF NOTICE ISSUED BY THE1T RESPONDENT. P7. COPY OF

ORDER

ISSUED BY THE1T RESPONDENT. P8. COPY OF APPELLATE

ORDER

PASSED BY THE SALES TAX APPELLATE TRIBUNAL, ERNAKULAM. P9. COPY OF NOTICE PASSED BY THE1T RESPONDENT. P10. COPY OF REPLYFILED BY THE PETITIONER. P11. COPY OF LETTER FILED BY THE PETITIONER. DCS WP(C).No. 21479 of 2013 (H) P12. COPY OF RECEIPT ISSUED BY1T RESPONDENT. P13. COPY OF LETTER SUBMITTED BY THE PETITIONER. P14. COPY OF NOTICE ISSUED BY THE1T RESPONDENT. P15. COPY OF REPLYFILED BY THE PETITIONER. P16. COPY OF NOTICE ISSUED BY THE1T RESPONDENT. P17. COPY OF REPLYFILED BY THE PETITIONER. P18. COPY OF NOTICE ISSUED BY THE1T RESPONDENT. P19. COPY OF NOTICE ISSUED BY THE1T RESPONDENT. P20. COPY OF REPLYFILED BY THE PETITIONER. P21. COPY OF REPLYFILED BY THE PETITIONER. P22.

COPY OF NOTICE ISSUED BY THE INTELLIGENCE OFFICER DEPT. OF
COMMERCIAL TAXES, PALARIVATTOM, KOCHI - 25 RESPONDENT(S)
EXHIBITS: NIL ----- /TRUE COPY/ P.A. TO JUDGE DCS
V. CHITAMBARESH, J ----- W.P.(C). NO. 21479
OF2013----- Dated this the 7th day of October, 2013

JUDGMENT

Ext. P7 order imposing penalty inter alia observes as follows:- "The day books and Ledgers received were made by binding photocopies of day books and ledgers." Ext. P8 order setting aside Ext.P7 order reiterates as follows:- "We direct the Intelligence Officer to return the seized documents to the assessee immediately." The writ petition is filed seeking a direction to the first respondent to return the original seized records.

2. The petitioner contends that the original of the day books and ledgers were in fact seized. Reliance is placed on Exts.P5, P6 and P6(a) notices for this purpose. The Government Pleader relies on Ext. P7 order to contend that only the bound photocopy of day books and ledgers were received. Only the photo albums were seized under Ext. P4 Shop Inspection Report which were returned to the petitioner.

3. The bound photocopies of day books and ledgers have been produced in Court by the Government Pleader. The Government Pleader on instructions submits that only the W.P.(C). NO. 21479 OF20132 bound volumes of the photocopy were received under Ext. P5 receipt. The same are now returned to the counsel for the petitioner in Court. There is no convincing evidence before me that any other original documents were either received or seized by the first respondent.

4. The petitioner has no subsisting grievance. The petitioner shall however be afforded an opportunity to cross examine the witnesses in case the proceedings are not complete before the first respondent. The petitioner shall produce a copy of the writ petition with the judgment before the first respondent. The proceedings shall be finalised by the first respondent at any rate on or before 30.11.2013. The writ petition is disposed of. Sd/- V. CHITAMBARESH JUDGE DCS