Rajesh Kumar Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1126979

Court : Kerala

Decided On : Jan-31-2014

Judge : Honourable Mr.Justice K.M.Joseph

Appellant : Rajesh Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.M.JOSEPH & THE HONOURABLE MR.JUSTICE K.HARILAL FRIDAY, THE31T DAY OF JANUARY201411TH MAGHA, 1935 RP.No. 817 of 2013 () IN OT.Rev.109/2012 -- (AGAINST THE

ORDER
/

JUDGMENT
IN OT.Rev 109/2012 of HIGH COURT OF KERALA) REVIEW PETITIONER(S)/APPELLANT/ASSESSEE: -- RAJESH KUMAR M/S.SAGAR ENTERPRISES, MATTANCHERRY ERNAKULAM DISTRICT. BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM) SRI.K.S.HARIHARAN NAIR RESPONDENT(S)//REVENUE: ------------------------ STATE OF KERALA REPRESENTED BY THE JOINT COMMISSIONER (LAW) COMMERCIAL

TAXES, ERNAKULAM. R1 BY ADV. GOVERNMENT PLEADER SRI.SUDHEESHKUMAR THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON31 01-2014, ALONG WITH RP. 821/2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: K. M. JOSEPH & K.HARILAL, JJ --------------------------------------- R.P.Nos.817 & 821 of 2013 in O.T.(Rev.) No. 109 & 115 of 2012 --------------------------------------- Dated this the 31st day of January 2014

ORDER

K.M. Joseph, J In the revision petitions, we had confirmed the order of the Tribunal by which the Tribunal had upheld the imposition of penalty at maximum i.e. twice the amount. In appeal, the appellate authority had actually reduced the penalty to 1= times. Two appeals were filed, one by the assessee and another by the Department. The appeal filed by the State was allowed and the appeal filed by the assessee was dismissed. It was against the order of the Tribunal, the assessee has approached this court by filing revision.

2. This is a case where proceedings were taken against the petitioner who sought to compound. The compounding was allowed and the cheque was issued. But, the cheque was dishonoured. Hence, the proceedings were taken which culminated in the orders imposing the penalty at twice the rate of tax. We have not found merit in the contention of the RP Nos.817 & 821/2013 2 petitioner that the officers should have permitted the petitioner to cross examine the consignees and transporters and there was illegality committed. This is a case where suppressed sales were attributed to the petitioner on the basis of the check post declaration. We, no doubt, noted that in few cases details relating to the consignee was also not forthcoming. We found no merit in the contention that the petitioner should be permitted to cross examination the consignee and the transporters.

3. The main complaint of the learned counsel for the petitioner is that there are several instances where the petitioner was not given details and only the place of the consignee was mentioned. The learned Government Pleader points out that the invoice number is mentioned. We do not think that the petitioner has made out any case for interference. In the facts and circumstances of the cases, having

regard to the fact that the petitioner had in fact applied for compounding in respect of all the transactions including those where the place of the consignee alone is mentioned according to the petitioner and invoice number is mentioned according to the Government Pleader, there is no merit in the petitioner's contention. RP Nos.817 & 821/2013 3 The petitions are dismissed. Sd/- K.M.JOSEPH, Judge. Sd/- K.HARILAL, Judge. Dpk. /True copy/ PS to Judge.