

Karan Singh Vs. Sathyendrakumar

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Court : Kerala

Decided On : Feb-18-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Karan Singh

Respondent : Sathyendrakumar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON TUESDAY, THE18H DAY OF FEBRUARY201429TH MAGHA, 1935 WP(C).No. 4773 of 2014 (V) ----- PETITIONER(S): ----- P.M.TRADING COMPANY, 42/1328A, K.K. PADMANABHAN ROAD, POWER HOUSE JUNCTION KOCHI18 REPRESENTED BY ITS PROPRIETOR P. MASTHAN BY ADV. SRI.VIJAYAN. K.U. RESPONDENTS: ----- 1. COMMERCIAL TAX INSPECTOR, COMMERCIAL TAX CHECK POST, ARYANKAVU, KOLLAM - 691002 2. THE STATE OF KERALA, RERPESENTED BY THE SECRTRY (TAXES) GOVT. SECRETARIAT, THIRUVANANTHAPURAM R BY SENIOR GOVERNMENT PLEADER SHOBA ANNAMMA EAPEN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON18 02-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 4773 of 2014 (V) ----- APPENDIX PETITIONER(S)' EXHIBITS : ----- EXHIBIT P1 : TRUE COPY OF THE TIN CERTIFICATE ISSUED BY THE REGISTERING AUTHORITY EXHIBIT P2 : TRUE COPY OF THE INVOICE NO262DATED1302-

2014 ISSUED BY THE SELLING DEALER EXHIBIT P3 : TRUE COPY OF THE INVOICES NOS6981 & 93 DATED 3005- 2013, 12-06-2013 & 28-06-2013 ISSUED BY THE SAME DEALER DURING THE YEAR CLEARED BY THE CHECK POST AUTHORITY EXHIBIT P4 : TRUE COPY OF THE INVOICE NO264 DATED 1302-2014 ISSUED BY THE SELLING DEALER EXHIBIT P5 : TRUE COPY OF THE NOTICE OR281513-14 DATED 1402-2014 ISSUED BY THE 1ST RESPONDENT EXHIBIT P6 : TRUE COPY OF THE EXPLANATIONS DATED 1402-2014 SUBMITTED BEFORE THE 1ST RESPONDENT RESPONDENT(S)' EXHIBITS : NIL ----- /TRUE COPY/ P.A. TO JUDGE P.R. RAMACHANDRA MENON, J.

----- W.P.C. No.4773
OF2014----- Dated this the 18th day of February, 2014.

JUDGMENT

The petitioner is aggrieved of the detention of goods brought by him (on the strength of Exts.P2,3&4 Invoices and Delivery Note in Form JJ), as detained by the first respondent/The Commercial Tax Inspector, issuing Ext.P5 notice under Section 47(2) of the KVAT Act doubting evasion of tax and demanding security deposit as specified therein, which made the petitioner to approach this Court by filing the writ petition.

2. The learned Government Pleader appearing for the respondents submits on instructions and with reference to the materials on record that, the goods under transport were physically verified and identified as wet dates. The supporting documents are an invoice and a delivery note in Form JJ.

The invoice value is far below the prevailing market price and hence the goods were detained in tune with the relevant provisions of law, leading to the impugned notice, doubting evasion of tax, and W.P.C.No.4773 OF20142 demanding security deposit.

3. The learned counsel for the petitioner submits that, there is absolutely no rhyme or reason to have detained the goods referring to 'under valuation', in view of the fact that the very same authorities have already cleared the item on the previous

day as well, at the same rate. It is also stated that the correct value has been shown and the position will be reflected from the books of accounts, in the course of verification, if necessary.

4. After hearing both the sides, this Court finds that the respondents are at liberty to take the proceedings in a logical conclusion by way of adjudication under Section 47(6) of the KVAT Act, but for that reason the goods need not be detained any further. The goods and the vehicle shall be released to the petitioner, subject to the satisfaction of the tax payable in respect of the commodity and on execution of a 'simple bond' for the balance amount in dispute. The adjudication proceedings shall be finalised, at the earliest, at any rate, within 'three W.P.C.No.4773 OF20143 months' from the date of receipt of a copy of this judgment. Petitioner shall produce a copy of this writ petition, along with a copy of the judgment, before the respondents, for further steps. sd/- P.R. RAMACHANDRA MENON, JUDGE sp

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