

Murugan Vs. the Intelligence Inspector

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Court : Kerala

Decided On : Jun-06-2014

Judge : Honourable Mr.Justice K.M.Joseph

Appellant : Murugan

Respondent : The Intelligence Inspector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.M.JOSEPH & THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR FRIDAY, THE 6TH DAY OF JUNE 2014 16TH JYAISHTA, 1936 WA.No. 681 of 2014 () -----
(AGAINST THE

ORDER

/

JUDGMENT

IN WP(C) 30886/2013 of HIGH COURT OF KERALA DATED 13-12-2013)
APPELLANT(S)/APPELLANTS:-: ----- MURUGAN,
AGED 31 YEARS, S/O.PACHAIMUTHU, RESIDING AT OLD NO.1/14, NEW NO.26
EDATHANUR VILLAGE, POST CHENGAM TK, THIRUVANNAMALAI
TAMILNADU - 606 707. BY ADV. SRI.TOMSON T.EMMANUEL
RESPONDENT(S)/RESPONDENTS:-: ----- 1. THE

INTELLIGENCE INSPECTOR, SQUAD NO.VI O/O.INSPECTING ASSISTANT COMMISSIONER (INTELLIGENCE) DEPARTMENT OF COMMERCIAL TAXES PALAKKAD AT OTTAPALAM - 678 001.

2. INSPECTING ASSISTANT COMMISSIONER (INTELLIGENCE), DEPARTMENT OF COMMERCIAL TAXES PALAKKAD AT OTTAPALAM - 678 001. R BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06/06- 2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.A. NO. 681/2014 APPENDIX APPELLANT'S EXHIBITS: ANN.-1: COPY OF

JUDGMENT

DATED 02/11/2011 IN W.P.(C) NO.29012 OF 2011 PASSED ON A SIMILAR SITUATION BY THIS HON'BLE COURT, DIRECTING TO RELEASE THE GOODS ON A SIMPLE BOND WITHOUT SURETIES. ANN-II: COPY OF CARIFICATION DATED 28/03/2012 ISSUED U/S. 94 BY THE CLARIFYING AUTHORITY UNDER THE KVAT ACT. ANN.III: COPY OF PROCEEDING OF THE COMMERCIAL TAX OFFICER (ENQUIRY), PALAKKAD IN RELEASING SIMPLE BOND FURNISHED IN ACCORDANCE WITH ANN.1

JUDGMENT

. ANN.IV: COPY OF NOTICE DATED 49/2013 ISSUED BY THE HYPOTHECATOR TO THE EQUIPMENT, M/S. SHRIRAM EQUIPMENT FINANCE CO. LTD., MUMBAI, IN RECALLING THE LOAN FOR DEFAULT IN REPAYMENT. /TRUE COPY/ P.S. TO JUDGE. K. M. JOSEPH & A.K.JAYASANKARAN NAMBIAR, JJ.

===== W.A. No. 681 of 2014
===== Dated this the 6th day of June 2014

JUDGMENT

K. M. Joseph, J.

The writ petitioner is the appellant. The petitioner sought an order for release of the excavator which is detained under Ext.P2 notice issued under the Kerala Value Added Tax Rules. The learned Single Judge disposed of the writ petition directing the release of the excavator on condition that the appellant furnishes bank guarantee to satisfy the sum demanded in Ext.P2. Paragraph 2 of the judgment of the learned Single Judge reads as follows: "2. I direct the first respondent to release the excavator on condition that the petitioner furnishes bank guarantee for the sum demanded as security in Ext.P2 notice. The bank guarantee shall be furnished in Form 6C as per Rule 19 of the Kerala Value Added Tax Rules. The same shall however be subject to the adjudication proceedings which shall be finalised by the competent officer soon." 2. Feeling aggrieved, the writ petitioner has preferred W.A.No.681/2014 2 this appeal. We notice that the learned Single Judge passed an interim order on 20/5/2014, which reads as follows: "Learned Govt. Pleader will get instructions. Post on 6/6/2014. In the meanwhile, the competent authority, under Section 47(2) of the KVAT Act, will finalise the enquiry after affording reasonable opportunity of hearing to the appellant and shall pass appropriate orders before the said date. " 3. Today when the matter came up for consideration, we heard the learned counsel for the appellant as well as the learned Government Pleader.

4. On our enquiry with the learned Government Pleader as to whether an order has been passed pursuant to the interim order, the learned Government Pleader submits that an order has been passed against the appellant, by the adjudicating authority. We record the above submission made by the learned Government Pleader and direct that the order so passed will be communicated forthwith to the appellant. We further direct that, if the appellant prefers a statutory appeal against the said order within time, the Appellate Authority will dispose of the appeal at the earliest, at any rate, within a period of three weeks from the date of filing of the appeal, W.A.No.681/2014 3 after affording the appellant an opportunity of being heard in the matter. Sd/- K. M. JOSEPH, JUDGE Sd/- A.K.JAYASANKARAN NAMBIAR, JUDGE dpk. /true copy/ PS to Judge.