

K. Govindaraj Vs. Central Board of Excise and Customs

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Court : Mumbai

Decided On : Jul-11-1989

Reported in : 1989(24)LC739(Bombay); 1989(43)ELT626(Bom)

Judge : Bhaktavatsalam, J.

Acts : Central Excise Act, 1989; [Constitution of India](#) - Article 226

Appeal No. : W.P. No. 8985 of 1989

Appellant : K. Govindaraj

Respondent : Central Board of Excise and Customs

Advocate for Pet/Ap. : K. Chandramouli, Adv. for ;R. Venkatasubramaniam, ;R.P. Shyamala and ;A. Rajasri, Advs.

Judgement :

ORDER

Bhaktavatsalam, J.

1. The Writ Petition has been filed praying for issue of a Writ of Mandamus, directing the respondents to pay the petitioners the reward amount of Rs. 4,62,700/- being the 20% of the estimated market value of the contraband goods seized.

2. The following narration of facts would show the funny attitude of the petitioners and the wrong interpretation given by them to the notification issued by the Government. When the petitioners went for fishing during May 1986 they saw some bundles floating in the sea and two persons struggling for help. It seems that they salvaged the above bundles and also rescued the said two persons and the two persons informed that they were transporting contraband goods to Indian shores from Sri Lanka. The petitioners salvaged the contraband goods and brought them to Nagapattinam and handed over the same, to the Customs Officials. There were sixteen bundles containing VCRs and Zip fasteners.

3. In the statement before the authorities the petitioners deposed that on 10-5-1986 night they went for fishing in the Launch No. IB 175 and spread note about 18 fathoms at sea of Kodayar and slept leaving Mariappan for guarding, that suddenly they heard a dazzling sound and awoke to see that some bundles were floating and two persons were struggling for help that they immediately salvaged the above bundles and rescued the above two persons, who told them that they were transporting contraband bundles to Indian shores from Sri Lanka but refused to divulge the name of the person to whom the above goods were transported and the place of landing, that they anchored at about 2 fathoms in sea-off Poombuhar and sent Shri Chinnal to inform the above to Goldass, a launch owner and to bring the launch; that curing the above goods, they did not try to catch hold of the above, persons; that on the arrival of Goldass, they informed him of the above and he instructed them to take the goods to Nagapattinam and hand over the same to Customs Officers and the Superintendent was given information about the above and that they know nothing more than these about the goods under seizure. It seems the petitioner by their letter dated 21-2-1988 requested the second respondent for grant of reward to informants under the Ministry of Finance Notification and Standing Orders No. 41/85, 33/86, 34/86, 35/86 and 12/87. They repeated their request during May, 1988 but in vain. Ultimately, they have come up with this writ petition.

4. Mr. K. Chandramouli learned Counsel for the petitioners contends that the petitioners are entitled for the rewards as per the Government of India Notification as per para 3.1.1 of S.O. No. 41/85 for Grant of rewards to informants and

Government Servants which reads as follows:

'Informers and Government Servants will be eligible for rewards upto 20% each of the estimated market value of the contraband goods seized. In respect of gold, silver, opium and other narcotic drugs etc., the overall ceiling for rewards (based on broadly 20% of the value of these items, as reckoned by the Government for the present) are shown in the Annex. These would be subject to periodical revision in the light of price fluctuations about which timely intimations should be sent to DGRI every quarter to enable him to recommend appropriate revision, as and when warranted, to the Ministry.'

I am not able to understand the arguments of the learned Counsel for the petitioners. The above notification states that the 'informers' will be eligible for rewards. Even by any stretch of imagination, on the facts of this case, it cannot be said that the petitioners are informers. What all they did is that they salvaged certain contraband bundles from the bond which capsized in the sea and handed them over to Customs Officials. It cannot be said to be an information given to the Department. In my view, the intention of the said notification is only to grant rewards to informers and Government Servants in case of seizure made, evasion of duty and other infringements detected under the Central Excises and Salt Act. Surely, the seizure made in the present case cannot be stated to be due to the information given by the petitioners. The petitioners brought the goods themselves to the respondents as stated above and they were confiscated. As such, I am not able to agree with the contention of the learned Counsel for the petitioner that the petitioners are entitled to the reward as contained in the notification. In the instant case this Court cannot exercise its power under writ jurisdiction under Article 226 of the Constitution. It is not the case the petitioners have informed the department and on the information the departmental authorities seized the goods. But on the facts of this case, the petitioners themselves have brought the goods to the department from the capsized boat. Therefore, in my view no question of 'information' arises, and therefore, the writ petition is dismissed. I feel that the department can consider to pay some amount ex gratia in view of the part played by the petitioners in handing over contraband goods.

