E. Sankaran Vs. Union of India

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Court : Kerala

Decided On : Dec-21-2005

Reported in : [2006]152TAXMAN620(Ker)

Appeal No. : OP No. 20968 of 1997(U) 21 December 2005

Appellant : E. Sankaran

Respondent : Union of India

Advocate for Pet/Ap. : M. Ramesh Chander, *for the Assessee* P.K. Ravindranatha Menon, N.R.K. Nayar & George K. George, *for the Revenue*

Judgement :

1. This writ petition is filed seeking to quash the decision contained in Ext. P2 and for a direction to the respondents to grant the petitioner 20 per cent of the amount seized by the respondents on 20-4-1989 from the firm M/s. Kushiram Ramchand.

2. The allegation of the petitioner is that on information given by him, certain undisclosed income was detected and amounts confiscated and, accordingly, he is entitled to 20 per cent of the amount detected and confiscated as a reward.

3. The petitioner filed O.P. 14774/1993, before this Court, which was disposed of as per Ext. P1 directing that untrammelled by any of the contentions raised in the counter-affidavit in that case, the petitioner's case shall be reconsidered by the

Chairman of the Central Board of Direct Taxes. The Chairman was to issue orders with notice to the petitioner.

4. It is thereafter that Ext. P2 has been issued by stating that the Competent Committee consisting of the members stated in Ext. P2 have, after giving opportunity to the petitioner of being heard, decided that the reward of Rs. 1,50,000 already paid to the petitioner is proper on the facts and circumstances of the case. It is stated in Ext. P2 that the Committee after carefully considering the representation of the petitioner at the time of hearing has come to the conclusion that the reward granted by the earlier Competent Committee was after carefully considering the nature and extent of information and extra taxes realized which were directly at attributable to the information supplied by the petitioner as the informant. The claim of the petitioner that he is entitled to 20 per cent of the seized amount as reward, was adverted to and considered by the Committee and it was held that the said claim is misconceived as the Reward Rules of Income-tax department do not make any reference to the total amount of seizure but only to the extra taxes realized on account of the search.

5. Counter-affidavit and additional counter-affidavit are on record.

6. Along with I.A. No. 16527/2005, the respondents have also placed on record Exts. R3(B) and R3(C). Ext. R3(B) discloses the guidelines and Ext. R3(C) is the minutes of the meetings which led to Ext. P2.

7. The factors which have to be considered for determining the reward are enumerated in Ext. R3(B). The authority competent to grant the reward is required to keep in mind the following circumstances :

(a) The accuracy of the information given by the informant;

(b) The extent and nature of the help rendered by the informant;

(c) The risk and trouble undertaken and the expense and odium incurred by the informant in securing and furnishing the information and documents;

(d) The quantum of work involved in utilizing the information furnished and in making the assessment;

(e) The quantum of extra taxes levied and actually realized or realizable which are directly attributable to the information and documents supplied by the informant. It is clarified that the quantum of extra taxes realizable will be determined only after all the assessments have become final and no appeal, etc., is pending or filed and the time for filing of appeal has expired;

In cases where the information led to recovery of otherwise irrecoverable taxes, the facility with which such taxes could be recovered as a result of the information.

8. Thus, it can be seen that the quantum of extra taxes levied and actually realized or realizable, which are directly attributable to the information and documents supplied by the informant is the relevant yardstick and such quantum of extra taxes realizable will be determined only after all the assessments have become final. The relevant considerations would show that merely because one person gives an information, that need not necessarily enable him to any benefit as claimed by the petitioner in this case. The risk and trouble undertaken, the expense and odium incurred by the informant in securing and furnishing information, the relevance of the information given and various other factors require to be considered.

9. Ext. R3(C) minutes of the meeting of the Committee that led to Ext. P2 communication would show that the entire case of the petitioner was considered and the various aspects on the basis of which reward is due to the petitioner have been succinctly considered by the Committee. Reasons are also stated in the said minutes. A reading of paragraphs 5 and 6 of Ext. R3(C) minutes, when contrasted with the information furnished by the petitioner as extracted in paragraph 4 of Ext. R3(C), would show that the Committee has taken a proper and just decision on the facts and circumstances.

10. That apart, in my considered view, this is not a matter in which the High Court, in exercise of writ jurisdiction, is to adjudicate as if it were sitting in appeal against the said decision. I am also fortified by the view that I take by the Division Bench

decision of the Patna High Court in V.K. Agrawal v. Union of India : [2002]254ITR618(Patna) and the Division Bench decision of the Allahabad High Court in Ram Baran Misra v. Union of India : [1998]234ITR431(All) .

I find no legal infirmity in Ext. R3(C) or in Ext. P2. The writ petition fails and it is, accordingly, dismissed, No costs.