(2000) 09 KL CK 0030

In the High Court Of Kerala

Case No : O.P. No. 5559 of 2000J 4 September 2000

K. DILIP KUMAR APPELLANT

Vs

ASSISTANT COMMISSIONER OF INCOME TAX RESPONDENT

Date of Decision : 04-09-2000

Acts Referred:

Citation : (2001) 165 CTR 19 : (2001) 113 TAXMAN 593

Hon'ble Judges : J. B. Koshy, J

Bench : Division Bench

Advocate : C. Kochunni Nair and Dale P. Kurian, for the Assessee P. K. Ravindranatha Menon, for the Revenue, for the Appellant;

Judgement

The petitioner applied for the benefit of ''Kar Vivad Samadhan Scheme'' for the payments due for the accounting year 1992-93. Admittedly, the petitioner failed to pay the amount required as per the Scheme within the time-limit. In paragraph 6 of the original petition, it is stated as follows:

"6. So the balance outstanding as on 31-3-1998 in the year in question was reduced from Rs. 4,43,452 to an amount of Rs. 3,02,239 due to the fact that the coverage under the Scheme is provided. But due to reasons, the petitioner could not pay the above amount within 30 days directed. The above amount as a whole was paid into State Bank of Travancore, Kollam, on 25-3-1999. There has been a delay of 18 days which was caused due to financial stringency and paucity, a phenomenon which was beyond the control of the petitioner."

There is no provision in the Scheme for condonation of delay, ''Kar Vivad Samadhan Scheme'' like ''Voluntary Disclosure of Income Scheme'' is a self-contained scheme. To get the best of income, tax due and payable should be paid within time. There is no ground to condone delay beyond the time permitted in the Scheme. In the absence of special penalty provisions, the respondents cannot condone the delay in making payment as per the Scheme and extend the benefit of the Scheme against the terms of the Scheme itself. Even if there is power to condone delay, the reasons stated for not paying the amount within time and for the delay are not sufficient. In the above circumstances, the petitioner''s contention in this aspect cannot be considered. In this connection, I refer to the decisions in VYSHNAVI APPLIANCES (P) LTD. Vs. CENTRAL BOARD OF DIRECT TAXES and Another, , in Kamal Sood Vs. Union of India and Another, and in Hemalatha Gargya Vs. Commissioner of Income Tax, A.P. - II and Another, .

2. Admittedly, there is delay in paying the amount as per the Scheme. Therefore, the petitioner cannot get any declaration from this court that the petitioner is entitled to the benefit of Kar Vivad Samadhan Scheme, 1998. However, I direct the second respondent to dispose of Ext.P2 appeal expeditiously.

The original petition is disposed of accordingly.