(2013) 01 KL CK 0090

In the High Court Of Kerala

Case No : W.P. (C) No. 284 of 2013 (I)

K. Viswambharan, S. Rajendran Nair and R.S. Suresh Kumar — APPELLANT

Vs

Intelligence Inspector, Assistant Commissioner, The Standard Agencies and Commercial Tax Officer (Work Contract) — RESPONDENT

Date of Decision : 07-01-2013

Acts Referred:

Citation : (2013) 01 KL CK 0090

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Judgement

Antony Dominic, J.—Petitioners are electrical contractors undertaking works of the Government and Government establishments. They are aggrieved by Exts.P7, P8 and P9 notices issued u/s 47(2) of the KVAT Act detaining consignments of electrical goods sent from the 3rd respondent. The irregularity mentioned in Ext. P7 is the failure of the first petitioner in filing quarterly return and the irregularities mentioned in Exts.P8 and P9 is that the TIN number mentioned in the invoice differs from the TIN number mentioned in Exts.P2 and P3 certificates. According to the petitioners, there was no deliberate attempt in violating the provisions of the Act. In so for as the failure of the filing of quarterly returns, it is stated that, it was on account of the delay in obtaining a certificate from the awarder that the return could not be filed. Although these are irregularities in the eye of law, still, question whether there was any deliberate attempt to evade tax is a matter to be adjudicated u/s 47 of the KVAT Act. Pending such adjudication, in the nature of the controversy and the volume of the transaction involved and also the fact that the petitioners are registered dealers, I direct that the goods detained as per Exts.P7, P8 and P9 be released to the petitioners subject to their executing bond without sureties for the amount mentioned therein.

Writ petition is disposed of as above.

