

(2023) 06 KL CK 0098

In the High Court Of Kerala

Case No : Writ Petition (C) No. 129 Of 2010

Karthikeyan T.K

APPELLANT

Vs

Commisioner Of Central Excise & Customs

RESPONDENT

Date of Decision : 09-06-2023

Acts Referred:

Citation : (2023) 06 KL CK 0098

Hon'ble Judges : Mohammed Nias C.P., J

Bench : Single Bench

Advocate : N.R.Chandrasekharan, Vinitha.B.

Final Decision : Dismissed

Judgement

Mohammed Nias C.P., J

1. Through this writ petition, the petitioner challenges Ext.P12 communication dated 22.5.2009 and Ext.P13 order of the Reward Committee dated 20.5.2009 denying the final reward to the petitioner and also for a prayer to sanction the maximum limit of the final award to the petitioner on the basis of Ext.P10 judgment of this Court.

2. The brief facts necessary for the disposal of the writ petition are as follows:-

The petitioner is an informant regarding an excise duty evasion before the Central Excise Department. In furtherance of the information given by him, the department recovered a sum of Rs.85 lakh, and going by Clause 4(1) of Ext.R1(a) guidelines issued by the Government, the informants are eligible for a reward up to 20% of the net sale proceeds of the seized goods + the duty evaded + fine and the penalty. The petitioner submits that he was paid only an advance reward of Rs.5 lakh, which was less than 10%, and demands what is due to him. Petitioner questioned the same by filing WP(C)No.26466 of 2003, and by judgment dated 13.01.2009, this Court directed the department to reconsider the issue of payment of further reward in accordance with the

Government guidelines. Pursuant to the above direction, the respondent considered the matter and found that the quantum of rewards is the discretion of the committee and the Collector of Customs. The petitioner filed a contempt of court case before this Court alleging non-compliance with the Judgment, wherein this Court held that the remedy of the petitioner was to challenge the order of the Reward Committee appropriately, and the decision thus taken, denying the reward, is challenged in this writ petition.

3. A counter affidavit has been filed on behalf of the respondents pointing out that Ext.P13 has been issued in accordance with Ext.P9 guidelines and Ext.P10 judgment of this Court, and the decision of the Reward Committee is taken after considering all the relevant aspects. It is also pointed out that Ext.P12 is only a communication sent to the petitioner that conveys the decision arrived at in Ext.P13 by the Reward Committee. All the factors necessary for deciding the quantum payable to the petitioner were reckoned. An amount of Rs.5 lakh paid to the petitioner is adequate full, and final. The reference to Rs.17 lakh as the total amount of reward was made solely in the context of determining the level/ composition of the reward sanctioning authority, which as per Ext.P9 guidelines, is to be fixed on the basis of the maximum amount that they can be sanctioned in a case when all the required conditions are satisfied.

4. Having heard the learned counsel on both sides and having considered the judgment of the Supreme Court in Union of India and others v. C.Krishna Reddy in Civil Appeal No.7127 of 1999 dated 18.12.2003, I am not inclined to accept the contentions on behalf of the petitioner. The Supreme Court, in the said judgment, clearly held that by the very nature of things, no one has a legal right to claim a reward. The scheme itself shows that it is purely an ex-gratia payment subject to guidelines and may be granted at the absolute discretion of the competent authority, and no one can claim the same as a matter of right. In such circumstances, a writ of mandamus cannot be issued as it applies only in a case where there is a statutory duty imposed upon the officer concerned, and there is a failure on the officer's part to discharge that obligation. In the absence of anything showing a statutory requirement that imposes a legal duty, the writ compelling the authorities to do something cannot be issued. In such circumstances and in the absence of any material to show the entitlement of the petitioner to more than what was already paid to him, the writ petition should necessarily fail, and accordingly, the same is dismissed.