

(2011) 12 KL CK 0012

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 32791 of 2011 (Y)

Oxide India Private Limited

APPELLANT

Vs

The Assistant Commissioner (Assessment) and The Deputy
Commissioner

RESPONDENT

Date of Decision : 21-12-2011

Acts Referred:

Citation : (2011) 12 KL CK 0012

Hon'ble Judges : S. Siri Jagan, J

Bench : Single Bench

Advocate : V.M. Kurian, for the Appellant;

Judgement

S. Siri Jagan

1. The petitioner is challenging Ext.P6 order passed by the 1st respondent imposing on the petitioner a penalty of Rs. 2,84,370/- on allegations of attempt to evade tax while transporting goods, on the ground that the petitioner had not been given an opportunity of being heard before passing that order. The petitioner had earlier given a bank guarantee as security for probable penalty amount for releasing the goods pending enquiry into the matter. The petitioner submits that the petitioner received a notice to appear before the 1st respondent, pursuant to which, the petitioner appeared along with his Accountant for a hearing and documents were produced. But, according to the petitioner, the 1st respondent informed the petitioner that a date for a detailed hearing would be intimated later. The petitioner submits that the petitioner has not received any further notice of hearing and that is why, the petitioner could not be present for any hearing thereafter. In view of the allegations in the writ petition, I directed the learned Government Pleader to see that a statement of the 1st respondent is filed. A statement has been filed, wherein it is stated that the petitioner was given Ext.R1(a) notice for appearing in person with supporting evidence on 12.8.2011, on which date, the petitioner appeared and requested for an adjournment, consequent to which, the case was postponed to 4.9.2011.

Since the petitioner did not appear on that date, the 1st respondent was constrained to pass Ext.P6 order is the contention raised.

2. The contentions of the parties are at variance. But the petitioner has produced some documents in this writ petition in support of his contentions. Therefore, notwithstanding the contentions of the 1st respondent, I am of opinion that the 1st respondent should consider the matter in the light of those documents after giving another opportunity of being heard to the petitioner. Accordingly, to give the petitioner another opportunity, I quash Ext.P6 order. The petitioner shall appear before the 1st respondent for a hearing on 28.12.2011. The 1st respondent shall hear the petitioner on that date and pass fresh orders expeditiously.

The writ petition is disposed of as above.