(2001) 10 KL CK 0020

In the High Court Of Kerala

Case No : O.P. No''s. 24440 and 24505 of 2001 (H)

P.M. Ibrahim APPELLANT

Vs

Additional Sales Tax Officer RESPONDENT

Date of Decision : 18-10-2001

Acts Referred:

Kerala General Sales Tax Act, 1963 — Section 14

Citation : (2002) 126 STC 245

Hon'ble Judges : Kurian Joseph, J

Bench : Single Bench

Advocate : K.B. Muhamed Kutty, for the Appellant; Sojan James, Government Pleader, for the Respondent

Judgement

Kurian Joseph, J.—The grievance in both the original petitions by separate parties is that the respondent is not taking steps to issue registration certificates under the Kerala General Sales Tax Act, 1963 and the Central Sales Tax Act, 1956. Petitioners have a common grievance that in spite of being small-scale industrial units, unreasonable conditions are insisted by the respondent for the registration under the Acts mentioned above.

2. In the statement filed in O.P. No. 24505 of 2001 it is stated that the petitioner therein on verification was found to be not in possession of any landed property or asset in his own name. Hence as per the instruction contained in the circular dated December 15, 1997 regarding registration of dealers in packing cases and timber, safeguards were insisted in the interests of revenue since there were quite a few instances of evasion of tax by obtaining registration in the name of benamies. It is also submitted that only sufficient security was insisted by the respondent in the interest of revenue. It is the case of the petitioners that in the matter of packing cases, tea-chests, wooden crates, etc., there are two recent circulars, exhibits P11 and P12 which insist for collection of advance tax and that the respondent has not referred to those materials. It is the further submission that if the case of petitioners is considered in the light of exhibits P11 and P12

circulars as also with particular reference to Section 14 of the Kerala General Sales Tax Act, 1963, the respondent could have issued registration certificates much earlier.

3. The learned counsel also invited my attention to Circular No. 9/1991 dated August 6, 1991 and also Circular No. 21/1994 dated October 1, 1994 in case of S.S.I. units. Section 14 of the Act no doubt provides for additional security as and when required. But that stage would arise only after registration and hence the question of insisting additional security can be thought of only after making an assessment of the dealings of the petitioner. But at the same time, the respondent cannot be faulted for taking steps to ensure the interest of Revenue. The learned counsel for the petitioners also invited my attention to a recent decision of this Court reported in Leny Saju v. Sales Tax Officer [2000] 123 STC 646 ; (2000) 8 KTR 188 (the judgment in the said case is produced as exhibit P10 in O.P. No. 24440 and exhibit P3 in the other O.P.) It is stated therein that the registration is only a formality and that a rational approach is always expected from the officers.

4. In the above circumstances, I dispose of the original petition directing the respondent to examine the case of the petitioners forthwith in the light of the observations and references made above. Appropriate action in the matter of issuance of registration certificates in" the case of petitioners should be taken within a period of one month from the date of production of a copy of this judgment.

The petitioners will produce a copy of this judgment along with copies of the original petitions and the materials referred to above before the respondent so as to enable the respondent to process the applications forthwith.

Order on C.M.P. No. 40040 in O.P. No. 24440 of 2001, dismissed.