
(1989) 04 KL CK 0001
In the High Court Of Kerala
Case No : O.P. No. 3175 of 1989-C

P.V. Varghese

APPELLANT

Vs

CEGAT

RESPONDENT

Date of Decision : 05-04-1989

Acts Referred:

Citation : (1990) 29 ECC 19 : (1989) 23 ECR 546 : (1989) 41 ELT 625

Hon'ble Judges : T.L. Viswanatha Iyer, J

Bench : Single Bench

Advocate : S.P. Parameswaran, R.V. Nair, K.N. Chandra Babu and T.C. Thomas, for the Appellant; P.V. Madhavan Nambiar, Central Govt. Pleader, for the Respondent

Judgement

T.L. Viswanatha Iyer, J.—Heard Shri P.V. Madhavan Nambiar, Senior Standing Counsel for the Central Government who appears for the respondents on receipt of a copy of the original petition.

2. Against the order of adjudication Ext. P1 the petitioner has filed an appeal evidenced by Ext. P2 before the first respondent. He has also moved an application Ext. P3 for waiver of the deposit of duty and penalty as also for stay of recovery of the amount demanded pending the appeal. According to the petitioner his Counsel moved the first respondent for an expeditious disposal of the application for stay Ex1. P3, but the matter has not been taken up so far. It is averred that the petitioner's counsel who himself has filed this original petition also, tried to get the said petition posted for hearing on 8th, 9th and 10th of March, 1989, but that all his efforts proved futile. In the circumstances, he apprehends coercive action and therefore, he has come forward with this original petition for relief.

3. The first respondent is under a duty to consider the application for waiver of duty and also for stay of collection of the amount demanded as per Ext. P1. It is a duty to be performed expeditiously as otherwise the assessee will stand exposed to coercive action in the absence of stay. In the circumstances, I am

inclined to direct the first respondent to consider and dispose of the prayers made in Ext. P3 as, expeditiously as possible and meanwhile to keep recovery of the amount demanded as per Ext. P1 in abeyance. Though Shri P.V. Madhavan Nambiar opposes the prayer, I think the Tribunal is duty bound to dispose of the matter as expeditiously and any delay on their part will expose the petitioner to coercive action.

4. There will therefore, be a direction to the first respondent to consider and dispose of the petitioner's application evidenced by Ext. P3 as expeditiously as possible and at any rate within a period of two months from the date of receipt of a copy of this judgment. Pending disposal of Ext. P3, proceedings in enforcement of the order Ext. P1 shall be kept in abeyance.

The original petition is disposed of with the above directions. Communicate a copy of this judgment together with a copy of the original petition to the first respondent forthwith, for information and compliance.

Issue photo copy of the judgment on usual terms.

Order on CMP No. 9582/89. - Dismissed.

APPENDIX