
(2013) 01 KL CK 0179

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 1518 of 2013 (L)

Viswambaran

APPELLANT

Vs

Intelligence Inspector, Squad No. III and Another

RESPONDENT

Date of Decision : 18-01-2013

Acts Referred:

Citation : (2014) 67 VST 354

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : G. Bhagavat Singh, for the Appellant; Shoba Annamma Eapen, for the Respondent

Judgement

Antony Dominic, J.—The petitioner is a Government contractor. According to him, he has purchased hydraulic excavator. While it was being transported, the first respondent intercepted the vehicle with the excavator and initiated proceedings u/s 47 of the KVAT Act, 2003. That resulted in an order imposing penalty of Rs. 13,13,830. Appeal filed before the Deputy Commissioner (Appeals) was rejected. Therefore, the petitioner filed an appeal before the Appellate Tribunal, which resulted in exhibit P1 order. By this order the appellate authority allowed the appeal and set aside the penalty order and liberty was granted to the Intelligence Officer to conduct further investigation with regard to the transaction of M/s. Indian Motors, the dealer of the excavator. Exhibit P1 order of the Tribunal is dated November 3, 2012. The petitioner states that they got certified copy of the order in the first week of January, 2013 and immediately thereafter the petitioner submitted exhibit P2 request dated January 4, 2013, for release of the excavator. It is seen from exhibit P2 that though the request was received by the respondents on January 9, 2013. The excavator was not released. It is therefore this writ petition is filed seeking appropriate directions.

2. The case was adjourned for the Government Pleader to obtain instructions. Accordingly, she has obtained instructions and it is submitted that the Department has decided to file revision against exhibit P1 order before this court

and that it was therefore that exhibit P2 request of the petitioner was not considered.

3. As already stated, exhibit P1 order was rendered by the Tribunal on November 30, 2012 and the petitioner obtained a copy of the order in the first week of January, 2013. It is thereafter that the petitioner sought release of the vehicle. Evidently therefore if the Department has taken efforts, they too would have got the copy of the order from the Tribunal so that revision can be filed without any further delay.

4. In that view of the matter I am inclined to allow a reasonable time to the Department to pursue the revisional remedy and in case they do not do so, it shall be the obligation of the Department to give effect to the Tribunal order and to release the excavator to the petitioner. Therefore I dispose of the writ petition directing that if the Department does not file a revision and obtain appropriate interlocutory orders within 15 days from today, the respondents shall release the excavator to the petitioner in compliance with that of exhibit P1 order of the Tribunal.