
(2007) 03 KL CK 0106

In the High Court Of Kerala

Case No : Writ Petition (C) No. 4234 of 2007 (D)

V.V. Santhosh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 30-03-2007

Acts Referred:

Citation : (2011) 271 ELT 180

Hon'ble Judges : Thottathil B. Radhakrishnan, J

Bench : Single Bench

Advocate : P.A. Augustian, for the Appellant; John Varghese, A.S.G., for the Respondent

Final Decision : Dismissed

Judgement

Thottathil B. Radhakrishnan, J.—The petitioner moved this Court by filing W.P. (C).5047/06 in the backdrop of seizure of a Mercedes Benz car, which was imported into India. He sought for a direction to release that vehicle pending adjudication proceedings. This Court, after ascertaining the instructions in that regard from the Assistant Solicitor General, issued Ext. P2 judgment, directing that if the petitioner furnishes bank guarantee for an amount of Rs. 28,80.292/- and furnishes a bond agreeing to pay the balance differential duty on finalisation of adjudication proceedings, the vehicle would be released provisionally. The adjudication proceedings were also directed to be completed in a time bound manner. Ext. P3 appeal at the instance of the revenue against that judgment failed.

2. It appears that the petitioner's case as of now, is that he has furnished bank guarantee, but was also compelled to deposit certain amounts. But the fact remains that as of now, he is in possession of the vehicle. It is also the admitted situation that the petitioner is also party to proceedings before the Settlement Commission and that proceedings before that Commission are going on. The quality of proceedings before the Settlement Commission would obviously be quite different from a pure adjudicating proceedings. Under such circumstances,

pending of this writ petition itself would be an embargo to finalisation of proceedings before the Settlement Commission. Not only that, any over payment, under payment, adjustments and also as regards as to who would be liable to pay, are matters which could and would attain appropriate attention of the Settlement Commission. It would also be inappropriate to assume that Exts. P2 and P3 would escape notice of the Settlement Commission. Under such circumstances, pendency of this writ petition would only create bottlenecks and further proceedings before the Settlement Commission. Hence, this writ petition is dismissed. However, the petitioner is at liberty to raise all his contentions before the Settlement Commission. Following this judgment, it will be open to the Settlement Commission also to consider whether the vehicles in question could be permitted to be released to the 5th respondent. This is a matter that would gain attention of the Settlement Commission on the basis of the application of the petitioner already made to the Settlement Commission.