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**IN THE HIGH COURT OF DELHI AT NEW DELHI
WRIT PETITION (CIVIL) NO. 5361/2011**

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Reserved on: 20th December, 2011

Date of Decision: 27th February, 2012

AMRIT LAL MEHTA

...Petitioner

In person.

VERSUS

DIRECTOR GENERAL OF REVENUE INTELLIGENCE &
OTHERS

.....Respondents

Through Mr. Vikas Garg, Sr.
Standing Counsel & Mr. Vikas
Gautam, Jr. Standing Counsel for
respondent Nos. 1 and 2.

Ms. Sweety Manchanda, Advocate
for respondent No. 3.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE R.V. EASWAR

SANJIV KHANNA, J.:

Amrit Lal Mehta in 1987 provided information imputing evasion of customs duty on import of machinery by J.K. Synthetics Limited.

2. The petitioner by this writ petition impugns the quantum of award released to him, inter alia, contending that he was earlier sanctioned reward @ 20% of the customs duty vide certificates dated 26th March, 1998, 24th May, 2004 and 27th June, 2006 on the principal amount of tax, i.e., customs duty of Rs.1.21 crores

but the same has been reduced on the penalty and fine amount of Rs.2.5 crores to 15% on Rs.30 lacs vide certificate dated 14th February, 2008, to 8.33% on next Rs.60 lacs vide certificate dated 5th May, 2009 and to 8.28% on the balance Rs.1.60 crores vide certificate dated 11th May, 2010. It is prayed that the respondents should be directed to pay the reward @ 20% on the entire duty including penalty and fine.

3. The respondents herein Director General of Revenue Intelligence and Investigation, Chairman, Central Board of Excise and Customs and Union of India have not disputed that they had levied and recovered duty of Rs.1,21,37,611/- and penalty etc. of Rs.2.50 crores pursuant to the assessment/penalty order passed.

4. In order to appreciate the controversy and the contentions raised by the parties, we have to refer to the chequered history and the litigations inter se parties.

5. Vide certificate dated 26th March, 1998, the petitioner was granted interim part reward of Rs.6 lacs. The petitioner in 2003 filed Writ Petition (Civil) No. 7586/2003 alleging delay and failure on the part of the respondents to make payment of the balance

reward. This writ petition was disposed of vide order dated 20th April, 2004. The Division Bench observed that payment of reward was dependent upon actual realisation of dues. It was held that “adjustment” was a method to recover the dues and the Revenue authorities had recovered Rs.2.29 crores by way of adjustment. Reference was made to decisions of the Supreme Court in ***Union of India versus C. Krishna Reddy***, (2003) 12 SCC 627 and ***Union of India versus R. Padmanabhan***, (2003) 7 SCC 270 and it was, inter alia, directed as under:-

“11. We are not quantifying any sum but, we are directing the respondent to make the payment of the final reward amount in terms of the policy. The amount shall be paid within a period of 15 days from the date on which a copy of this order is produced by the petitioner with interest at the rate of 15% per annum failing which the amount shall be paid at the rate of 18% per annum and the additional 3% per annum shall be borne by the responsible officer who is not taking immediate action in the matter.”

6. Revenue preferred a Special Leave Petition, which was granted and registered as Civil Appeal No. 7482/2004. This appeal was disposed of vide order dated 26th April, 2005. The Supreme Court noticed that the Reward Committee had approved further payment of Rs.3.5 lacs in their meeting pursuant to the order passed by the High Court in the Writ

petition (Civil) No. 7586/2003 and observed to this extent the parties cannot have any grievance.

7. However, the Supreme Court did not approve of some of the observations/directions made by the High Court in the order dated 20th April, 2004 and it was, inter alia, directed as under:-

“ However, considering the fact that it has been held by this Court in the cases of Union of India & Ors. vs. C. Krishna Reddy reported in 2003 (10) SCALE 1050 as well as in Union of India vs. R. Padmanabhan reported in (2003) 7 SCC 270 and in the Reward Scheme that there is no vested right in the person to claim a reward and that the payment can, at the highest, be an ex-gratia payment. There is absolutely no justification to grant interest on such ex-gratia payment. We, therefore, set aside the portion of the High Court order where the interest is directed to be paid as well as the portion awarding costs.

Save as above, we see no reason to interfere. The Civil Appeal stands dismissed.”

8. In this order dated 26th April, 2005 passed by the Supreme Court, it was also noticed that a contempt petition had been filed by the petitioner herein before the High Court for the non-compliance of the order dated 20th April, 2004 and against quantification of Rs.9.5 lacs (Rs.6 lacs+Rs.3.5 lacs) as the reward payable. It was clarified that the dismissal of the appeal

before the Supreme Court would not affect the contentions of the parties in this contempt petition.

9. The aforesaid contempt petition being Contempt Case(C) No. 613/2004 was disposed of by a detailed decision dated 8th December, 2005. The Division Bench referred to the reward policy and quoted paragraphs 4.1, 5.1 and 7.1 of the same. For the sake of convenience, these are reproduced below:-

“4.1 Informers and Govt. servants will be eligible for reward upto 20% of the net sale-proceeds of the contraband goods seized and/or amount of duty evaded plus amount of fine and penalty levied/imposed and recovered. However, in respect of gold, silver, opium and other narcotic drugs etc. seized under the provisions of the Customs Act, 1962/Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, the overall ceiling of reward will be as per specific rates indicated in the Annexure. These ceilings would be subject to periodical revision in the light of the price fluctuations of these items, for which periodical intimations may be sent to the DGRI/DGNCB, who, in turn, will send suitable recommendations to the Ministry, for appropriate revision, as and when warranted.

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5.1 Reward is purely an ex-gratia payment which, subject to guidelines, may be granted on the absolute discretion of the authority competent to grant rewards and cannot be claimed by anyone as a matter of right. In determining the reward which may be

granted, the authority competent to grant reward will keep in mind the specificity and accuracy of the information, the risk and trouble undertaken, the extent and nature of the help rendered by the informer, whether information gives clues to persons involved in smuggling, or their associates etc., the risk involved for the Govt. servants in working out the case, the difficulty in securing the information, the extent to which the vigilance of the staff led to the seizure, special initiative, efforts and ingenuity displayed, etc. and whether, besides the seizure of contraband goods, the owners/organizers/financiers/racketeers as well as the carriers have been approached or not.

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7.1 Final rewards, both to officers as well as informers, should be sanctioned and disbursed only after conclusion of adjudication/appeal/revision proceedings. The final reward will be determined on the basis of the net sale proceeds of goods seized/confiscated (if any) and/or the amount of additional duty/fraudulently claimed Drawback recovered plus penalty/fine recovered, and the total reward admissible, i.e., advance and final reward put together, will not exceed the ceiling of 20% of the net sale proceeds (if any) plus amount of additional duty/fine/penalty recovered or the amount of drawback fraudulently claimed recovered, as the case may be. This will be subject to instructions in para 4.3 above as regard rewards to Govt. Servants is concerned. The advance/interim reward sanctioned and disbursed, if any, shall be adjusted from the final reward to be paid to the officers/informers.”

10. It was thereafter observed that use of the term “upto 20%” for the quantum and as a ceiling of reward, clearly means that the reward cannot exceed 20% of the duty/penalty evaded. This is the outer limit. It was further observed that paragraph 5 forbids grant of reward as a matter of routine. Thereafter, the Division Bench referred to ***R. Padmanabhan’s*** case (supra) wherein it was observed that reward under the scheme was purely an ex gratia payment but the same could not be denied or refused arbitrarily. Being an ex gratia payment, no right accrues to any one, till it is determined and awarded. The following paragraph from ***R. Padmanabhan’s*** case (Supra) was quoted:-

“8. The rewards are also to be and can be “up to 20%” or as the case may be and not that invariably it must be as a rule 20% of the estimated market value. Reward is purely an *ex gratia* payment, subject to the Guidelines on the discretion of the competent authority, though it cannot arbitrarily be denied or refused at whim or fancy and it should specifically conform with and must be shown to fall or be claimed within the four corners of the Scheme and not by any deviation or modulation of the Scheme, as the courts think it should be and if it cannot come strictly within the four corners of it, such claim may have to be dealt with only under the residuary powers enabling the grant of reward. That apart, being *ex gratia*, no right accrues to any sum

as such till it is determined and awarded and, in such cases, normally it should not only be in terms of the Guidelines and policy in force, as on the date of consideration and actual grant but has to be necessarily with reference to any indications contained in this regard in the Scheme itself.... .Therefore, the reward could not have been allowed in this case completely ignoring the amendments, which came into force in April 1989, merely because the seizure was in February 1989.”

11. The Division Bench also quoted from the case of **C.**

Krishna Reddy (supra), in which it has been held as under:-

“12. The scheme or the policy of the Government of India dated 30-3-1985 shows that the authority competent to grant the reward, while taking a decision regarding the entitlement of the person concerned has to keep many factors in his mind like specificity and accuracy of the information, the risk and trouble undertaken, the extent and nature of the help rendered by the informer, whether information gives clues of the persons involved in smuggling or their associates, the difficulty in securing the information, the risk involved for the government servants in working out the case and whether apart from seizure of contraband goods, the owners/organisers/financiers/racketeers have been apprehended. The scheme further mentions that reward is an ex gratia payment and subject to the guidelines and may be granted on the absolute discretion of the competent authority and further that no one can claim the reward as a matter of right. The High Court in writ jurisdiction cannot examine or weigh the various factors which have to be taken into consideration

while deciding a claim regarding grant of reward. These are matters exclusively within the domain of the authorities of the Department as they alone can weigh and examine the usefulness or otherwise of the information given by the informer. In the writ petition filed by the respondent, no details had been given on the relevant issues. If the grant of reward cannot be claimed as a matter of right, it is not understandable as to how a writ of mandamus can be issued commanding the Government to give a particular amount by way of reward. Though this specific plea was taken in paras 18 and 21 of the counter-affidavit, yet neither the learned Single Judge nor the Division Bench adverted to this aspect of the matter.

13. It is well settled by a catena of decisions of this Court that a writ of mandamus can be granted only in a case where there is a statutory duty imposed upon the officer concerned and there is a failure on the part of that officer to discharge the statutory obligation. The chief function of the writ is to compel performance of public duties prescribed by statute and to keep subordinate tribunals and officers exercising public functions within the limit of their jurisdiction. Therefore, in order that a mandamus may issue to compel the authorities to do something, it must be shown that there is a statute which imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance. [See *Bihar Eastern Gangetic Fishermen Coop. Society Ltd. v. Sipahi Singh*, AIR para 15, *Lekhraj Sathramdas Lalvani v. N.M. Shah, Dy. Custodian cum Managing Officer and Umakant Saran (Dr.) v. State of Bihar.*]

12. The Division Bench observed that the authority competent to grant the reward has to take a decision regarding entitlement keeping in mind several factors. The courts cannot examine or weigh those factors which are exclusively within the domain of the authorities. It was held that the Supreme Court had declared that no one had a legal right to claim reward particularly when the scheme itself stipulated that the payment was ex gratia and may be granted at the discretion of the competent authority. Mandamus cannot be issued in the absence of a statutory duty. After referring to the case law, the Division Bench of the High Court in their decision dated 8th December, 2005 elucidated and gave the following directions:-

“15. The direction issued by this Court in the writ petition filed by the petitioner has of necessity to be understood in the context of the above legal position. That is particularly so when the question is whether the amount of reward has or has not been properly quantified by the respondents. The respondents had a two-fold option available to them in that regard. The first was to determine a lump sum amount by way of reward taking into consideration the nature of the information and all other relevant facts and circumstances and either pay the same in lump or relate the payment to the realisation of duty from the defaulting party. The other option was to determine an appropriate percentage of the realisations which could not in terms of the policy be

more than 20% and grant the same to the petitioner depending upon the recoveries made by them from time to time. No such decision appears to have been taken. What is mentioned is that a final reward representing 20% of the “amount realised” has been sanctioned in favour of the petitioner. That leaves the question, regarding future realisations and the petitioner’s entitlement on the basis of the same, open. It is not clear whether the respondents intend to sanction any further amounts in favour of the petitioner with further recoveries being made by them, nor is it clear whether the amount of Rs.9.5 lacs already sanctioned represents the total amount regardless of the percentage it makes vis-à-vis the realisations. That is an aspect which ought to have been addressed by the reward Committee to put an end to the confusion and avoid multiplicity of legal proceedings in the Court. If the reward Committee intends granting a reward on the basis of a percentage of the realisations made, it can say so in which event the petitioner may have to wait for realisations and seek redress as and when the amount due on that basis is withheld by the respondents. In case, however, the Committee determines in its wisdom a lump sum amount in full and final settlement of the claim for reward, it can do even that to give quietus to the controversy. In either case a decision that is clear as to the total quantum of the reward whether lump sum or by reference to percentage of realisations shall have to be taken. That decision is for the present not discernible from the record placed before us but the omission to take a decision does not appear to be either deliberate or contumacious so as to call for any action in contempt. The problem in our

opinion lies more with the understanding of the purport of the orders passed by this Court than any wilful neglect or defiance of the directions issued on the subject. It is therefore high time that the respondents take an appropriate decision on the subject to avoid any further procrastination of the matter.

16. In the result, we dispose of this petition with the following directions:

(i) The respondents shall quantify the amount payable to the petitioner in terms of the direction issued by this Court in W.P. (C) No. 7586/2003 and the observations made here-in-above within a period of six months from today;

(ii) In case, the respondents decide to grant any further amount to the petitioner by way of reward, the amount, so sanctioned, shall be released in his favour without undue delay not later than two months from the date of such determination; and

(iii) The final decision of the competent authority, taken in terms of the direction of this Court, issued in W.P. (C) No. 7586/2003 and those contained in this order, shall be communicated to the petitioner, who shall then have the liberty to seek appropriate redress in separate writ proceedings which the petitioner shall be free to file, if otherwise legally maintainable.”

13. Pursuant to the aforesaid directions, the reward committee has sanctioned rewards of Rs.14 lacs, Rs.4.5 lacs, 5 lacs and 13.25 lacs vide certificates dated 27th June, 2006, 14th February,

2008, 5th May, 2009 and 11th May, 2010. The certificate dated 27th June, 2006 for Rs.14 lacs was towards part payment of the principal amount of Rs.1.21 crores. Thus, the petitioner was paid Rs.23.5 lacs on recovery of Rs.1.21 crores by certificates dated 26th March, 1998 for Rs.6 lacs, 24th May, 2004 for Rs.3.5 lacs and 27th June, 2006 for Rs.14 lacs. The maximum reward payable on Rs.1.21 crores was Rs.24.27 lacs. The certificates dated 14th May, 2008, 5th May, 2009 and 11th May, 2010 are in respect of penalty/fine of Rs.13 lacs, Rs. 60 lacs and Rs.1.60 crores, respectively (total penalty amount is Rs.2.50 crores). The reward on the penalty amount has been paid @ 15%, 8.33% and 8.28% on the respective amounts mentioned above. Thus, in all reward of Rs.46,25,000/- has been paid to the petitioner.

14. At the very outset, we may notice and reject the contention of the petitioner that he is entitled to reward @ 20% and this is the mandate of the scheme. The petitioner has referred to decision in **R. Padmanabhan's** case (supra) and paragraph 8 thereof which has been quoted above. The petitioner is misreading the observations made therein. The said observations were quoted by the Division Bench in the order

dated 8th December, 2005 and have been rightly understood and interpreted. The use of the word “upto 20%” does not mean that as a rule 20% of the tax dues should be paid as a reward. This is an outer/upper limit and the reward can be for a lower amount. In ***R. Padmanabhan’s*** case (supra), the Supreme Court observed that different criteria can be applied for payment of reward to Government servants and citizens. In the latter case, the Government should be liberal and the criteria and parameter for rewards to informants and government servants can be different.

15. The Revenue has placed before us copy of the Minutes of the six Reward Committees and we have examined the same. The Reward Committee in its meeting held on 12th August, 1997 had sanctioned advance reward of Rs.6 lacs. It was noticed that under the policy, the petitioner was entitled to reward upto 50% of the amount due to him as appeals were pending. This was an interim award, which was awarded as the information was provided by the petitioner in 1987. It may be noted that till then no amount had been recovered. This interim award does not help the case or submissions made by the petitioner.

16. The second Reward Committee was held on 11th May, 2004, pursuant to the directions issued by the High Court in Writ Petition (Civil) No. 7586/2003. The said Reward Committee in the minutes dated 11th May, 2004 has observed:-

“ Coming to the admissibility of final reward in the impugned case, it is important to note that as per reward policy, reward is purely an ex-gratia payment and as per para 5.1 of the policy, its quantum depends on various factors such as specificity and accuracy of the information, risk and trouble undertaken etc. As already stated, maximum permissible reward in a case is 20% of the amount recovered. The Committee has gone through the facts of the case as well as the letter dated 29th April, 2004 submitted by the Informer, giving details of the information furnished by him. The Committee observes that the information given by the informer was very generic in nature and the informer does not deserve reward at the maximum rate of 20%. After taking into consideration the amount of duty confirmed i.e. Rs.1.21 crores, recovery of Rs.47.8 lakhs in the impugned case and the relevant facts, the Committee is of the view that total reward amounting to of Rs.9.5 lakhs can be paid to the informer in the impugned case. Accordingly, after adjusting advance reward Rs.6 lakhs already paid, final reward of Rs.3.5 lakhs (Rs. Three lakhs fifty thousand only) is sanctioned to the informer.”

(emphasis supplied)

17. We may also note that aforesaid minutes were examined in Cont. Cas.(C) No. 613/2004, which was disposed of by an order of remit dated 8th December, 2005.

18. The third Reward Committee was convened pursuant to the directions issued in the order dated 8th December, 2005 in Contempt Case (C) No. 613/2004. The said Reward Committee in its meeting held on 19th May, 2006 observed as under:-

“4. An amount of Rs.9.5 lakhs has been sanctioned and paid to the informer as per decision of the Reward Committee Meetings dated 12.08.97 and 11.05.04. The maximum amount of reward that can be considered in the case in terms of the reward policy on the basis of the realization of Rs.1.21 crores is Rs.24.27 lakhs.

5. The Committee after considering the facts of the case, the specificity of the information and the role played by the informer in this case sanctions a final reward of Rupees Fourteen lakhs only (Rs.14 lakhs) to the informer.”

19. One distinguishing and important factor may be noted. The aforesaid rewards sanctioned were in respect of tax demand, i.e., customs duty, which was evaded. It was not in respect of fine and penalty.

20. The first and the third Reward Committees' minutes dated 12th August, 1997 and 19th May, 2006, do not quantify the reward in the percentage terms. The second Reward Committee's minutes had recorded that the petitioner did not deserve reward at the maximum rate of 20% as the information given was very generic. The second Reward Committee held on 11th May, 2004, took into consideration the recovery made and other factors and had accordingly sanctioned Rs.6,00,000/-. However, observations of the said Reward Committee have to be read with the directions/observations made by the High Court in W.P. (C) No. 7586/2003, which were modified by the Supreme Court and the directions issued in the contempt proceedings mentioned above. In the third Reward Committee's meeting held on 19th May, 2006, a further reward of Rs.14,00,000/- was sanctioned to the petitioner. This Reward Committee referred to the specificity of the information and the role played by the petitioner as an informer.

21. The next meeting of the Reward Committee was held on 6th November, 2007 but the minutes of the said meeting are signed by members on different dates. This Reward Committee recorded and held:-

“5. Pursuant to the said directions, a Reward Committee met on 19.05.2006. The said Reward Committee after taking into consideration the directions of Hon’ble High Court of Delhi had observed in its meeting held on 19.05.2006 that “the maximum amount of reward that can be considered in the case in terms of the reward policy on the basis of realisation of Rs.1.21 crores is Rs.24.27 lakhs”. The said Reward Committee after considering the facts of the case, the specificity of the information and the role played by the informer sanctioned a final reward of Rs.14 lakhs to the informer.

6. The present Reward Committee further observes that pursuant to the decision of the aforesaid Reward Committee, the Additional Director General, DRI had informed the informer on 22.11.06 that the reward was sanctioned by the aforesaid Reward Committee on the basis of the recovery made so far, and that in the event of any further recovery in the case, the Reward Committee will take a view in the matter”

7. After taking into consideration the above facts, role of the informer, and the fact that further Rs.30 lakhs has been recovered, as intimated vide Commissioner of Central Excise Jaipur-I letter C. No.V(6)49/AE/JPR-I/2002/PT./469 dated 15/19.07.2007 against the penalty of Rs.2.5 crores, the Committee sanctions an amount of part final reward of Rs.4.5 lakhs (Rs.4,50,000/-) to the informer. The Committee further decides that henceforth the reward to the informer will be paid at the rate of 15% of the amount realised in future out of the unrealised penalty amount.”

(emphasis supplied)

22. It is clear from the aforesaid minutes that the Reward Committee had held and decided that henceforth the reward to the petitioner should be paid @ 15% on penalty amount of Rs. 2.5 crores. Reward of Rs.4.5 lacs was sanctioned as Rs.30 lacs had been recovered out of penalty and fine payable. It was decided that reward @ 15% shall be paid on the penalty amount which would be realised in future.

23. The next meeting of the Committee was held on 26th March, 2009. Mr. A.C. Buck, Chief Commissioner of Customs was a Member of this Committee as well as the Committee which had sanctioned the reward in its meeting held on 6th November, 2007. In this meeting, it was observed and held as under:-

“6. After taking into consideration the foregoing facts, role played by the informer in giving the information of a very generic nature and the fact that a further amount of Rs.60 lakhs has been recovered since the Reward Committee met last, as has been intimated vide Additional Commissioner (AE), Jaipur-I’s letter C.No.IV(6)49/AE/JPR-1/02/Pt./1113 dated 28.05.2008 the Committee sanctions an amount of part final reward of Rs.5 (five) lakhs to the informer. The Committee further decides not to bind the future Committees by laying down the percentage of the amount to be realised in future in determining the amount of reward

to be paid in future in the event of further future recovery.”

(emphasis supplied)

24. Reading of the aforesaid minutes would show that it was decided that the petitioner should be paid Rs.5 lacs out of Rs.60 lacs, which had been recovered. It was also observed that the information given by the petitioner was of a very generic nature. The Committee over ruled the observations and directions given in the meeting held on 6th November, 2007 that in future the petitioner would be paid 15% of the amount realised. Rs.5 lacs out of Rs.60 lacs works out to 8.33% and is substantially lower than rate of 15% fixed earlier.

25. The last meeting of the Committee was held on 10th March, 2010 and in this meeting Mr. A.C. Buck was also present but as the Director General of Central Excise Intelligence. In this meeting it was held as under:

“6. After taking into consideration the foregoing facts, role played by the informer in giving the information of a very generic nature and the fact that a further amount of Rs.160 lakhs has been recovered, on account of penalty amount, since the Reward Committee met last, as has been intimated vide Assistant Commissioner, Central Excise Kota Division’s letters

C.No.V(19)19/J.K. Recovery/03/part.II/628 dated 14-07-2009 and C.No.V(19)19/J.K. Recovery/03/part. II/249 dated 17-02-2010 the Committee sanctions an amount of part final reward of Rs.13.25 lakhs (Rs. Thirteen lakh and twenty five thousand only) to the informer. This is full and final settlement of the reward amount to the informer.”

26. The amount of reward on Rs.160 lacs was reduced to 8.28% or Rs.13.25 lacs. It was further observed that the information was of a very generic nature.

27. We have quoted above the minutes of various meetings in which rewards have been awarded. In the first three minutes, reward has been awarded @ 19.4% that is nearly the maximum possible rate. The said reward was on the principal amount of customs duty of Rs.1.21 crores and, therefore, the Reward Committee was competent to award a lower amount/percentage on the penalty and fine amount but this is not the reason and ground given in the last two minutes of the Reward Committee. The Reward Committee in the last two minutes has opined that the information given by the petitioner was of generic nature and according to the role played, the petitioner is entitled to reward @ 8.33% on Rs.60 lacs and 8.28% on Rs.160 lacs. There is a contradiction between the findings recorded in the minutes of the

Reward Committee dated 6th November, 2007 in which it was decided that the petitioner would be paid reward @ 15% on all future realisation of the penalty amount. There is, therefore, merit in the contention of the petitioner that there is element of arbitrariness, inconsistency and disagreement in the three minutes. In the last two minutes as a result of variance with the finding recorded in the minutes dated 6th November, 2007 and the earlier meeting on the 11th May, 2004 the rewarded amount had come down to 8.33% and 8.28%. Reward is to be awarded by the Reward Committee keeping in mind several aspects including specificity and accuracy of information, risk and trouble taken, extent and nature of help rendered by the informer, etc. The information furnished was the same, but there is substantial variance in the amount rewarded. On the basis of the same information, reward on the penalty and fine amount has varied between 15% to 8.28%. Same very information was held to be good to make re-award @ 15% but subsequently held to be generic and not specific and, therefore, the reward was reduced to 8.33% and then 8.28%. The difference in monetary terms in view of the quantum is substantial. It is not as if the Reward Committee in the meeting dated 6th November, 2007 did not

know the quantum of penalty and fine. The said amount of Rs.2.5 crores had been already quantified and is mentioned in the first minutes of the meeting of the Reward Committee held on 12th August, 1997.

28. In these circumstances, we pass an order of remit and ask the Reward Committee to consider afresh the rewards awarded vide minutes dated 26th March, 2009 and 10th March, 2010. We are not inclined to pass an order of remit in respect of the meeting held on 6th November, 2007. Percentage and extent of reward, which can be awarded in case of principal amount, i.e., customs duty and the penalty/fine amount can vary and need not be the same. The amount of reward already paid can also be relevant criteria. We do not express any opinion on whether or not reward already sanctioned/paid is sufficient or not. This is for the reward committee to examine. We have merely considered the reasons recorded in the minutes dated 26th March, 2009 and the 10th march, 2010 and find that they are arbitrary and cannot be reconciled with the earlier finding and reasoning.

29. As noticed above, this case has had several rounds of litigation. We, therefore, hope and expect that the Reward

Committee will be convened expeditiously and will dispose of the issue after examining the details. We clarify that we have not expressed any opinion on whether or not the petitioner is entitled to an enhanced reward or reward @15% or even at a lower rate. The findings/observation made in the meeting dated 6th November, 2007 will not be binding on the Reward Committee, and they shall independently apply their mind. We have interfered only because there was contradiction in the reasons referred to by the Reward Committee, which is nothing but an error in the decision making process. The Reward Committee will examine the claim on the basis of the policy/guidelines or the scheme. The petitioner will be at liberty to make a written representation, which will be placed before the Reward Committee. The said written representation will be filed within a period of three weeks from today. The writ petition is disposed of. No costs.

-sd-
(SANJIV KHANNA)
JUDGE

-sd-
(R.V. EASWAR)
JUDGE

FEBRUARY 27, 2012/VKR