

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C).No. 10987 of 2014 (W)

PETITIONER(S):

1. K.KARUNAKARAN
KOZHITHODATHU VEEDU, PANTHRANDUMURI NAGAR
THATTAMALA.P.O., KOLLAM-20.
2. P. AMBIKA DEVI,
W/O. K. KARUNAKARAN, KOZHITHODATHU VEEDU
PANTHRANDUMURI NAGAR, THATTAMALA.P.O., KOLLAM-20.

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENT(S):

1. THE ASSISTANT EXCISE COMMISSIONER
KOLLAM-691001.
2. THE EXCISE COMMISSIONER,
THIRUVANANTHAPURAM-695001.
3. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO THE GOVERNMENT
TAXES(A) DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695001.

R BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 10987 of 2014 (W)

PETITIONER'S EXHIBITS :

EXT. P1. A TRUE COPY OF THE ORDER NO.4-2898/99 OF THE 1ST RESPONDENT DT. 3-6-2000.

EXT. P2. A TRUE COPY OF THE RECEIPT DATED 21-11-2008 ISSUED BY THE 1ST RESPONDENT.

EXT. P2(a). A TRUE COPY OF THE RECEIPT DATED 22-11-2008 ISSUED BY THE 1ST RESPONDENT.

EXT. P2(b) A TRUE COPY OF THE RECEIPT DATED 20-11-2008 ISSUED BY THE 1ST RESPONDENT.

EXT. P3. A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE HON'BLE MINISTER FOR EXCISE DATED 6.4.2009.

EXT. P4. A TRUE COPY OF THE JUDGEMENT DATED 21-3-2012 IN WPC NO. 27400/2009 OF THIS HON'BLE COURT.

EXT. P5. A TRUE COPY OF THE ORDER NO.19689/A1/2008/TD DT. 23-3-2011 ISSUED BY THE GOVERNMENT

EXT. P6. A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE 3RD RESPONDENT WITH COPIES TO THE RESPONDENT NOS.1 AND 2

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.10987 of 2014 W

Dated this the 18th day of February, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned Government Pleader for the respondents, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioners, along with their son and one Mr.Omanakuttan, were given FL-1 licence for Shop No.34/99-2000 of Chathannur Range. In course of time, from and out of the security amount deposited by the petitioners, the respondents adjusted an amount of ₹ 6,71,614/- towards kist and thereafter demanded the petitioners to pay the said amount to replenish the amount adjusted from the security deposit. When the petitioners did not comply with the said

directive, the respondents cancelled the licence, apart from forfeiting the balance amount of ₹ 12,67,499/- through Exhibit P1 order. In the light of the Amnesty Scheme introduced by the Government, the petitioners were allowed to compound the offence on payment of Rupees Twenty lakhs, which they remitted as compounding fee. Under those circumstances, the petitioners submitted Exhibit P6 representation for refund of the security amount. Aggrieved by the inaction on the part of the respondent authorities in considering Exhibit P6 representation, the petitioners have filed the present writ petition.

3. The learned counsel for the petitioners has submitted that in the light of the ratio laid down in **V.K.Asokan and others v. Assistant Excise Commissioner and others** (2009 (5) SCJ 783), the Government considered many similar applications and given the benefit thereof. According to him, despite a clear ratio

laid down in the decision referred to above, so far the respondent authorities have not considered the petitioners' Exhibit P6 representation.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioners and the learned Government Pleader, this Court disposes of the writ petition with a direction to the third respondent to consider Exhibit P6 representation of the petitioners in accordance with law and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of two weeks from the date of receipt of a copy of this judgment.

Dama Seshadri Naidu, Judge

tkv