

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 21296 of 2013 (J)

PETITIONER:

P.DEVARAJAN, AGED 60 YEARS,
S/O.PADMANABHAN, NAVARANGATH, KADUVINAL P.O.,
VALLIKUNNAM, ALAPPUZHA - 690 501.

BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.V.A.JOHNSON (VARIKKAPPALLIL)
SRI.UNNI SEBASTIAN KAPPEN

RESPONDENTS:

1. THE EXCISE COMMISSIONER,
EXCISE COMMISSIONERATE,
THIRUVANANTHAPURAM - 695 001.
2. THE DEPUTY EXICSE COMMISSIONER,
EXCISE DIVISION OFFICE, KOLLAM - 691 001.
3. THE MECHANICAL ENGINEER (EXCISE),
THIRUVANANTHAPURAM - 695 001.

R1-3 BY SRI. JUSTIN JACOB, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 21296 of 2013 (J)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1. TRUE COPY OF THE JUDGMENT IN W.P.(C)NO.5455 OF 2013 OF THIS HON'BLE COURT, DATED 25.03.2013.

EXHIBIT P2. TRUE COPY OF THE ORDER NO.Q7-2948/98 DATED 08.07.2013 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P3. TRUE COPY OF THE COMMON JUDGMENT IN S.C.NO.235/2003 AND S.C.NO.742/2005 OF THE COURT OF THE ADDITIONAL SESSIONS JUDGE (ABKARI CASES), KOTTARAKKARA, DATED 27.04.2011.

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 21296 of 2013 (J)

Dated this the 21st day of January, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Government Pleader, apart from perusing the record.

2. Briefly stated, the petitioner's vehicle, an Ambassador car bearing registration No. KL-2D-6795, was seized by the Sub Inspector of Police, Anchalumoodu on 08.08.1998 on the allegation that it was used for illegal transportation of spirit within the limits of Pathanapuram Police Station. It can be seen from the record that crime No. 224 of 1998 was registered by the police for the alleged offences punishable under Sections 55(a) and (i) of the Abkari Act.

3. In course of time, in terms of the order in O.P. No. 18949 of 1998, the interim custody of the vehicle was given to the petitioner on his providing a bank guarantee for an amount of ₹ 1,75,000/-. Owing to subsequent development, after the trial of the case in crime No. 224 of 1998, the

authorities wanted to re-confiscate the vehicle in question. At that time when an option was given to the petitioner either to surrender the vehicle or to have the value of the vehicle adjusted from the bank guarantee already given, the petitioner decided to surrender the vehicle which, in fact, he did. Having thus surrendered the vehicle, the petitioner made an application for re-assessing the value of the vehicle so that the amount thus valued could be deducted from the bank guarantee and paid to the petitioner. At any rate, the petitioner filed W.P.(C) No. 5455 of 2013 before this Court, which, through Ext.P1 judgment, directed the authorities to re-assess the value of the vehicle.

4. The record further reveals that the authorities got the vehicle re-assessed by a competent automobile engineer and thereafter issued Ext.P2 proceedings fixing the value of the vehicle at ₹ 20,000/-. There is also consequential direction in Ext.P2 proceedings that the petitioner be paid back ₹ 20,000/- from and out of the bank guarantee he had provided at an earlier point of time. Under those circumstances, assailing the

re-assessment as inadequate, the petitioner has filed the present writ petition.

5. The learned counsel for the petitioner has strenuously contended that the vehicle was initially assessed at the time of confiscation at ₹ 1,75,000/- and in a matter of 10 years, it was drastically reduced to ₹ 20,000/-. According to the learned counsel, the vehicle is worth much more than what has been valued by the engineer and at least it ought to be in the range of ₹ 60,000/- to ₹ 75,000/-. Accordingly, he has urged this Court to issue a fresh direction to the authorities to have the value of the vehicle further re-assessed and the amount paid back to the petitioner.

6. Through a profusion of precedents, the Constitutional Courts of the country have fixed the adjudicatory parameters under Article 226 of the Constitution of India. It being a judicial review, this Court cannot don the role of an expert in every walk of life and in every filed of activity. It is not the case of the petitioner that the officials have been guilty of any mala fides in

re-assessing the value of the vehicle nor is it his case that the Engineer, who assessed it, is incompetent. Essentially, assessment of a vehicle is to the subjective satisfaction of the assessor involving an element of guess work. Given the assessor's expertise and given the absence of any allegation as to his competence, this Court regrettably cannot upset the findings of an expert without much material on record to come to a different conclusion.

In the facts and circumstances, this Court dismisses the writ petition. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

