

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1845 OF 2015

Apex,	}	
C/o. Mr. M. S. Agharkar	}	Petitioner
versus		
Union of India and Ors.	}	Respondents

Mr. Ketan Kantilal Modi – petitioner in-person.

Mr. Pradeep S. Jetly for respondent nos. 1 to 7.

CORAM :- S. C. DHARMADHIKARI &
G. S. KULKARNI, JJ.

DATED :- MARCH 22, 2016

P.C. :-

1) This petition is filed by a party in person claiming a writ of mandamus or any other writ or direction directing respondents to pay a sum of Rs.46,37,000/- stated to be the balance reward.

2) The petition proceeds on the footing that on the information provided by the petitioner, who is a vigilant citizen, one of the assessee voluntarily deposited the service tax dues of 2.59 crores. Based on the circulars styled as “reward circulars”, details of which are set out in para 3 of the writ petition, the petitioner claims that he is entitled to reward in the sum of Rs.51,80,000/-.

3) Reliance is placed upon a Division Bench judgment of this court rendered in the case of *XYZ vs. Union of India*¹, which has been decided by this court on 27th April, 2015.

4) From para 4 of the petition, a reference is made to the reward circulars and then it is stated that one M/s. Asian News International (ANI) was the tax defaulter. Upon the petitioner providing information, this defaulter came forward and voluntarily paid the service tax. Thus, the efforts of the petitioner need to be rewarded. That is how reliance is placed on the document Annexure 'F', which shows that the petitioner's name is listed at Serial No. 41 under caption "Reward to Informer in the case of M/s. ANI Media Pvt. Ltd. The argument is that the petitioner's role has not been discussed and a quantum of reward has been determined unilaterally much below the prescribed limit of 50%. Therefore, balance amount of the reward be directed to be paid. The entire petition is based on the figures of reward and allegedly in terms of the circulars.

5) However, an affidavit in reply has been filed on behalf of the respondents, particularly by respondent no. 6. The Principal Commissioner of Service Tax, in the affidavit in reply, admits that information was provided in relation to the above

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media company. The tax evasion by this media company has been set out and then, in para 6, it is stated that the Reward Committee examined the information provided by the petitioner and the amount collected after investigation by the office. The Reward Committee sanctioned a final reward of Rs.5.50 lacs, which is in tune with the information about evasion of tax and on investigation, according to the deponent, only a sum of Rs.9.23 lacs was found short paid/recovered.

6) On the basis of such materials, the reward sum has been determined and it has been duly paid by a Demand Draft enclosed to a letter, copy of which is at Exhibit - 3 to this affidavit in reply.

7) Reliance is also placed on Exhibit - 1 to the affidavit in reply.

8) The petitioner filed a detailed rejoinder, in which he asserts that it is not his business to give specific figures or details of the evasion. He has to only complain and thereafter give information with regard to the evasion of service tax. If that information, as provided, is true and correct and based on that recoveries are effected, then, the reward circular mandates computation of the sum based on the quantum thereof and not

how the authorities arrive at any figures and attributable to the information. Thus, the case of the petitioner is that it is not possible for the authorities to bifurcate the information and attribute to the petitioner only that part of it, which results in actual recoveries. The Department, thus, cannot cover up its lapses in recovery of taxes avoided and evaded by assesseees and thereafter foist upon the petitioner the liability to disclose the exact amount, which is due and payable, according to him. That part is not to be performed by the informant.

9) After having perused the petition, the reply affidavit and the rejoinder, together with all Annexures thereto, we are of the view that it will not be possible for this court to decide the disputed question of fact. There is a reward claim and for that purpose, circular is issued. However, the petitioner submits that the reward to which he was eligible on the basis of the information provided and service tax recovered pursuant to the information is not the correct and proper procedure of computation of the reward amount. The reward disbursed to the petitioner till date is only an advance amount and not the final sum. The respondents are misleading this court and they ought to faithfully disclose that the petitioner is entitled to a sum of Rs.51.87 lacs. Thus, what we find is that the petitioner disputes

the computation. The petitioner submits that because of the nature of services offered by the assessee that he learnt about the service tax evasion. The assessee evaded service tax. The petitioner's information led to recovery of tax along with interest worth Rs.2.5935 crores. The evaded tax was paid by the assessee voluntarily under the self assessment scheme and investigators had very little role in the recovery, which alone was enough to qualify and consider the petitioner eligible for full reward at the rate of 20%. Thus, how the reward amount is to be computed and whether the amount as computed by the respondents is in tune with the reward scheme or the circular in that behalf itself is a disputed question. Once the petitioner now and in the rejoinder affidavit seeks more details of the information already forwarded and tries to elaborate it with figures, particularly after enlisting the services provided by the assessee, then, all the more we do not think that in writ jurisdiction we can resolve such a factual dispute. We cannot undertake an elaborate exercise of arriving at the figures of the reward. It is not just on affidavits that the figures can be determined and correctly. The affidavit sets out versions of both sides. Which version is the correct one would have to be determined in appropriate proceedings. If the petitioner claims the sum under the head "balance reward", then, whether that balance, as computed by the petitioner, is accurate

or that there is no balance are matters which must be resolved by a competent Civil Court. It is not as if the petitioner is remedyless.

10) It is in these circumstances we find that no assistance can be derived by the petitioner from the Division Bench judgment of this court. That is distinguishable on facts.

11) Once we arrive at the above conclusion, then, the writ jurisdiction is not a remedy for the petitioner. The petition is dismissed as the petitioner has alternate and equally efficacious remedy of bringing in a civil suit in a competent Civil Court. All the more when the final amount is stated to be paid on 12th October, 2011 and the present writ petition is lodged on 8th July, 2015, whether the petitioner can claim the amount stated as balance reward after the lapse of more than three years is also a disputed issue.

12) For all these reasons, we dismiss the writ petition on the ground that an alternate equally efficacious remedy is available to the petitioner.

(G.S.KULKARNI, J.)

(S.C.DHARMADHIKARI, J.)