

2023 LiveLaw (SC) 581

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

ABHAY S. OKA; J., SANJAY KAROL; J.

Civil Appeal No(s).12033/2018; July 13, 2023

KETAN KANTILAL MODI *versus* UNION OF INDIA & ORS.

Tax Evasion - Reward to informers - The Supreme Court directed the reward committee constituted by the Ministry of Finance under the "Reward to Informers" policy to take a fresh decision on the amount of reward awarded to a person who gave information regarding tax evasion by news agency M/s ANI Media Pvt Ltd.

For Appellant(s) Petitioner-in-person

For Respondent(s) Mr. N. Venkatraman, A.S.G. Mr. Mukesh Kumar Maroria, AOR Mr. V.c. Bharathi, Adv. Ms. Nisha Bagchi, Adv. Mr. Harish Pandey, Adv. Mr. T.S. Sabarish, Adv.

ORDER

Heard the appellant-in-person and the learned counsel appearing for the Union of India.

The case of the appellant which is accepted by the respondents, is that the appellant was entitled to a reward under "the Reward to informers and Government Servants Review of Policy-Procedure and Guidelines"¹ issued by the Ministry of Finance (Department of Revenue), Central Board of Excise and Customs, New Delhi (Annexure P-1).

According to the case of the appellant, he provided information to the authorities about the tax evasion of Rs. 2.59 crores by an assessee. The grievance of the appellant was that in terms of the Clause 4.1 of the said Policy, he was entitled to a reward upto 20% of the amount of duty evaded plus amount of fine and penalty imposed and recovered. His submission is that though he was entitled to the reward of Rs.51.87 lakhs, he was sanctioned only a sum of Rs.5.50 lakhs by way of reward.

The appellant filed a petition under Article 226 of the Constitution of India before the High Court. A Division Bench of the High Court held that the writ petition involved disputed questions of fact and therefore, appropriate remedy for the appellant was to file a civil suit.

Learned counsel appearing for the respondents does not dispute that the entitlement of the appellant was under Clause 4.1 of the said Policy. However, she relies upon the Minutes of the meeting of the Reward Committee. The meeting was held on 18th April, 2011. Her submission is that though the Minutes do not mention that the appellant will be entitled to only a sum of Rs. 5.50 lakhs, a note sheet was placed before the Committee which makes the recommendation to pay the sum of Rs.5.50 lakhs to the present appellant. Her submission is that she will be in a position to produce the file to show that the entitlement of the appellant was restricted to Rs.5.50 lakhs.

We carefully perused the Policy (Annexure P-1) which is admittedly applicable to the case of the applicant. Under Clause 4.1 of the Policy, the reward is upto 20% of the amount evaded plus the amount of fine and penalty levied. As per the policy, a committee comprising of three members is empowered to take a decision regarding the reward. We have perused the Minutes of the meeting dated 18.04.2011.

¹ The Policy

Though in the affidavit filed in response to the rejoinder, a reliance is placed in a note-sheet, we find that there is no mention in the Minutes that the decision of the Committee is based on any notesheet. The decision does not record the reasons why the appellant is not entitled to 20% as provided in the Policy and why the reward should be restricted to Rs.5.50 lakhs.

Reliance is also placed by the learned counsel appearing for the respondents on letter dated 12.10.2011. The letter simply records that reward amount of Rs.5.50 lakhs is being forwarded by a demand draft.

The minutes show complete non application of mind on the prayer made by the appellant. It is well settled that if the decision-making authority does not record reasons for coming to a particular conclusion, the reasons cannot be supplied by filing affidavits.

We, therefore, direct the Committee constituted under the State Government Policy dated 20.06.2001 to reconsider the case of the appellant. The pleadings in this appeal and other documents which are on record shall be placed before the Committee.

We may also note here that the order dated 20.09.2018 records the statement of learned ASG that the amount of reward has been enhanced to Rs.9.45 lacs. This also supports the reasons recorded by us that there is no application of mind by the Committee.

The Committee will give opportunity of being heard to the appellant and then decide whether the appellant is entitled to any amount over and above Rs.9.45 lakhs already paid to him.

Needless to add that if the committee finds that appellant is entitled to additional amount, the Committee will recommend payment of reasonable interest to the appellant.

Appropriate decision shall be taken by the Committee within a period of six months from today and shall be communicated to the appellant.

The impugned judgement and order is modified to the above extent. The Appeal is partly allowed. No costs.

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