

Gold Confiscated from Person coming out of Jewellery Shop as no documents evidencing Payment of Tax could be furnished

2021 (4) TMI 1094 - Kerala High Court in SR. Sheetal Jain, S/O Dilip Kumar, M/S. Sri Sital Jewellers Versus The State Of Kerala, The State Tax Officer (Intelligence)

1. Department during shadow operation noticed two persons entering and coming out of the jewellery shop. The bags held by them were checked and those were found to be containing gold ornaments weighing 2270.13 grams including stone weight.
2. Ext.P2 notice makes it clear that goods were not accompanied by any documents showing or reflecting payment of tax on them as per the provisions of the GST Act, 2017.
3. On these facts, the respondent authority came to the conclusion that the goods i.e., gold jewellery were being supplied and received in contravention of the provisions of the GST Act and Rules made thereunder, with intend to avoid payment of tax and accordingly, notice under Section 130 of the GST Act came to be issued.
4. Petitioner filed reply to that notice on 15.12.2020 and he was heard in pursuant to that notice.
5. By Ext.P5 impugned order, the Sales Tax Officer (Intelligence) came to the conclusion that detained goods are liable for confiscation in pursuant to the provisions of Section 130 of the GST Act.
6. The material reflected in the show cause notice reflects *mens rea* on the part of petitioner.
7. Neither before the authority under the GST Act nor before this Court, the petitioner has filed any evidence to show that the goods in the form of gold jewellery weighing more than two kilograms possessed by them were held by them under any authority of law after making payment of taxes as per GST Act.
8. No documents evidencing payment of tax as contemplated under the GST Act of 2017 are shown by the petitioner even before this Court.
9. The writ petition, as such, is totally devoid of merits and the same is accordingly dismissed.