

Police was justified in releasing seized cash in absence of any requisition issued by IT dept.

Summary – The High Court of Gujarat in a recent case of Deputy Superintendent of Police & 2., (the Assessee) held that where Police authorities seized cash from respondent Nos. 2 and 3 while they were travelling in a car, since department had not issued any requisition with respect to said cash under section 132A and, moreover, same could not have been withheld under provision of Code of Criminal Procedure, impugned order passed by DSP releasing said cash did not require any interference

Facts

- On 4-11-2015, the Police authorities intercepted a car and found that there were two passengers in the car i.e. respondent Nos. 2 and 3 carrying cash amount of Rs. 1.40 crore.
- The Police authorities seized said cash under a seizure memo. The case of the occupants was that they were the employees of 'A' firm and the cash belonged to the firm which was wrongly seized by the police authorities. Simultaneously, application was also moved before the Police authorities for release of the cash. The Deputy Superintendent of Police, passed an order releasing the cash on certain terms and conditions.
- The department filed instant petition submitting that the action of the said officer was needlessly hasty and when the department was looking into the source of the cash, there was no reason why the same should have been released without awaiting of outcome of such inquiry.

Held

- From the materials on record, it can be seen that the department had not issued any requisition with respect to the cash in question under section 132A. Under clause (c) of sub-section (1) of section 132A, it is open for the competent authority if he has reason to believe that any assets represent either wholly or in part income or property which has not been, or would not have been disclosed for the purpose of the Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force, he may require the officer or the authority to deliver such asset to the requisitioning officer. When no such requisition was made, the Police authority had no business to withhold the cash, if the same was not required for Police purposes and could not have been withheld under the powers of Criminal Procedure Code.
- So far as the Police is concerned, when it was convinced that such amount was not involved in any illegal activity nor any offence was registered against the occupants of the car or any other person which may have link to such cash, the said authority had no reason to, in fact, no power to withhold such amount. It was always open for the competent authority acting under section 132A to requisition such amount, if the conditions contained therein were satisfied. However, without any

such requisition, it was not open to ask the Police authorities not to release the amount which the said authorities otherwise did not require to withhold.

- Even otherwise, while releasing the amount, the Deputy Superintendent has imposed certain conditions one of them being that, if and when the revenue authorities required the persons from whom the amount was seized to appear and produce the amount, they would do so.
- Under the circumstances, instant petition is dismissed.