

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 195 of 2015 (Y)

PETITIONER:

**M/S.FENESTA INDIA LTD., III/497-C,
2ND FLOOR, SOUTH KALAMASSERY, NH-47,
NEAR KALAMASSERY MUNICIPAL OFFICE,
KOCHI-682 033,
REPRESENTED BY S.DHANASEKARAN,
COMMERCIAL EXECUTIVE.**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON**

RESPONDENT(S):

- 1. ASST. COMMISSIONER,
COMMERCIAL TAXES SPECIAL CIRCLE - III,
COMMERCIAL TAX COMPLEX, KOCHI - 682 015.**
- 2. INTELLIGENCE INSPECTOR, SQUAD NO.I,
DEPARTMENT OF COMMERCIAL TAXES,
ALAPPUZHA-688 001.**

BY SENIOR GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXHIBIT P1 : COPY OF REGISTRATION CERTIFICATE ISSUED BY THE
1ST RESPONDENT DATED 12.2.2013.**

**EXHIBIT P2 : COPY OF ORDER BY M/S. MGM CHARITABLE AND WELFARE SOCIETY
DATED 29.11.2014.**

EXHIBIT P3 : COPY OF INVOICE ISSUED BY THE PETITIONER DATED 1.1.2015.

EXT. P3(A): COPY OF INVOICE ISSUED BY THE PETITIONER DATED 1.1.2015.

EXT. P3(B): COPY OF INVOICE ISSUED BY THE PETITIONER DATED 1.1.2015.

EXT. P3(C): COPY OF INVOICE ISSUED BY THE PETITIONER DATED 1.1.2015.

EXT. P3(D): COPY OF INVOICE ISSUED BY THE PETITIONER DATED 1.1.2015.

EXT. P3(E): COPY OF INVOICE ISSUED BY THE PETITIONER DATED 1.1.2015.

EXT. P3(F): COPY OF INVOICE ISSUED BY THE PETITIONER DATED 1.1.2015.

EXT. P3(G): COPY OF INVOICE ISSUED BY THE PETITIONER DATED 1.1.2015.

EXT. P3(H): COPY OF INVOICE ISSUED BY THE PETITIONER DATED 1.1.2015.

EXT. P3(I): COPY OF INVOICE ISSUED BY THE PETITIONER DATED 1.1.2015.

**EXHIBIT P4 : COPY OF NOTICE IN FORM NO.17A ISSUED BY THE 2ND RESPONDENT
DATED 1.1.2015.**

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.195 OF 2015

Dated this the 8th day of January, 2015

J U D G M E N T

Petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P4 notice issued to him detaining a consignment of window frames, that was being transported from South Kalamassery to Cherthala. In the writ petition the petitioner is aggrieved by the insistence of the respondents that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. Heard Sri.Harisankar V.Menon, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P4 notice it is seen that there is no dispute that the goods at the time of transportation were accompanied by valid documents as contemplated under the Kerala Value Added Tax Act.. The only ground cited for detention of the

goods is a possibility of evasion at the hands of the consignee.

(ii) Under these circumstances and taking into account the fact that the petitioner is a registered dealer, I direct the respondents to release the goods and the vehicle, on the petitioner executing a simple bond without sureties, before the 2nd respondent, for the amount demanded in Ext.P4 notice.

(iii) The respondents shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders, after hearing the petitioner, within two months from the date of receipt of a copy of this judgement.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

