

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 1936

WP(C).No. 197 of 2015 (Y)

PETITIONER(S):

**VALVOLINE CUMMINS PRIVATE LIMITED,
KERALA BRANCH OFFICE, BUILDING NO.V/77, ABCD,
ELAVANKATTU NAGAR, THRIKKAKARA
ERNAKULAM DISTRICT-682 021,
REPRESENTED BY ITS AUTHORISED SIGNATORY MR.D.DINAKARAN.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR
SRI.N.R.SAJ**

RESPONDENT(S):

- 1. INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, SQUAD NO.III,
ALAPPUZHA-686 601.**
- 2. ASSISTANT COMMISSIONER
COMMERCIAL TAXES, SPECIAL CIRCLE,
ERNAKULAM-682 015.**

BY SENIOR GOVERNMENT PLEADER SMT.SHOBANAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF CERTIFICATE OF REGISTRATION.**
- P2 : COPY OF MONTHLY RETURN FOR THE MONTH NOVEMBER, 2014.**
- P3 : COPY OF INVOICE DTD.27.12.2014.**
- P3(A) : COPY OF INVOICE DTD.27.12.2014.**
- P3(B) : COPY OF INVOICE DTD.27.12.2014.**
- P4 : COPY OF NOTICE DTD.30.12.2014 ISSUED BY THE 1ST RESPONDENT.**
- P5 : COPY OF REPLY DTD.31.12.2014.**
- P6 : COPY OF LETTER DTD.29.12.2014 ISSUED BY THE CUSTOMER (PURCHASER).**
- P7 : COPY OF THE LR(RECEIPT) ISSUED BY THE TRANSPORTER.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 197 of 2015 (Y)

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Dated this the 6th day of January, 2015

JUDGMENT

The petitioner company is a registered dealer under the KVAT Act. The petitioner is mainly dealing with lubricant oils and is aggrieved by Ext.P4 notice issued to him detaining the consignment that was being transported from Ernakulam to Thiruvalla at his instance. 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 the learned counsel appearing for the petitioner and 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) In view of the fact that the transportation of the goods was not covered by valid documents as prescribed under the KVAT Act, the detention of the goods in transit cannot be said to be illegal.

(ii) Considering the fact, however, that the petitioner is a registered dealer and there is no threat of evasion of tax, the respondents shall release the goods covered by the detention notice on the petitioner paying 25% of the security deposit demanded and executing a simple bond, without sureties, for the balance amounts before the first respondent.

(iii) The first respondent 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 judgment.

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/06/01/