

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 450 of 2015 (E)

PETITIONER :

**SOUTHERN GRANITE INDUSTRIES,
EDACODE, MUKKUNNIMALA, NEMOM.P.O.,
THIRUVANANTHAPURAM, REPRESENTED BY ITS MANAGING
PARTNER, SRI.K.J.THOMASKUTTY.**

**BY ADVS.SRI.BECHU KURIAN THOMAS
SRI.PAUL JACOB**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
COMMERCIAL TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001**
- 2. INTELLIGENCE INSPECTOR, SQUAD NO.VII,
NEYYATTINKARA, THIRUVANANTHAPURAM-695 001**

R1 & R2 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.450/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE EXCISE CUM TAX INVOICE DATED 29/12/2014 ISSUED BY THE CATERPILLAR INDIA PRIVATE LTD.**
- P2 COPY OF THE TAX INVOICE DATED 30/12/2014 ISSUED BY GMMCO LTD.**
- P3 COPY OF THE FORM 8F DECLARATION DATED 30/12/2014**
- P4 COPY OF THE NOTICE DATED 02/01/2015 ISSUED BY THE 2ND RESPONDENT.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 450 of 2015 (E)
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Dated this the 7th day of January, 2015

JUDGMENT

The petitioner, a partnership firm engaged in the business of quarrying of dimension stones, is a registered dealer under the KVAT Act and is aggrieved by Ext.P4 notice issued to him detaining a Hydraulic Excavator, that was being transported from Tamilnadu to Kerala, 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 Sri.Bechu Kurian Thomas, 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) It is seen from the perusal of Ext.P4 notice that the transportation of the goods was actually covered by the documents specified under the KVAT Act and, the only

ground for detention pointed out is the possibility that there could be a collusion between the consignor and consignee with regard to the manner in which the interstate transportation of the goods took place.

(ii) Inasmuch as there is no apparent discrepancy in the documents that accompanied the goods during transportation, I direct the respondents to release the goods and the vehicle, on the petitioner executing a simple bond without sureties before the second respondent, for the amounts 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 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