

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. 561 of 2015 (U)

PETITIONER :

**M/S KAJARIA CERAMICS LTD.,
REGISTERED OFFICE AT KAJARIA CERAMICS LTD, MN SQUARE,
DOOR NO. 48/557-A-B-C & D, NEAR GOLD SOUK GRANDE,
VYTILO, ERNAKULAM - 682019 REPRESENTED BY IT'S MANAGER
ACCOUNTS, MR. SIEGFRID JACOB**

BY ADV. SMT.K.LATHA

RESPONDENTS :

- 1. THE STRATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM - 695001.**
- 2. INTELLIGENCE INSEPCTOR, SQAD NO. 2,
MATTANCHERRY, DEPARTMENT OF COMMERCIAL TAXES,
MATTANCHERRY - 683101.**

BY GOVERNMENT PLEADER SRI. BOBBY JOHN P. PULIKKAPARABIL

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

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1A: COPY OF THE IMPORT INVOICE OF MAERSK LINE, CHINA WITH BL NO. 565414697 DT 10/12/2014.**
- P1B: COPY OF THE BILL OF LANDING NB/L NO. HFSZ 14120957 DT 10/12/2014.**
- P2: COPY OF THE VAT INVOICE NO. 4414001952 DT 3/1/2015 ISSUED BY THE PETITIONER TO PAITTAKULAM MARBLES, KOTHATTUKULAM, ERNAKULAM.**
- P3: COPY OF THE FORM 8F DT 3RD JANUARY 2015 DECLARED BY THE PETITIONER.**
- P4: COPY OF THE DETENTION NOTICE OR N. 673/14-15 DT 5/1/2015 ISSUED BY THE SECOND RESPONDENT U/S 47(2) OF THE K VAT ACT TO THE PETITIONER.**
- P5: COPY OF THE RELEVANT PORTION OF THE LOCK OF THAT CONTAINER MARKING MAERSK ML-CN 0083744.**
- P6: COPY OF THE SALE BILL ISSUED BY THE FRIENDS AUTOMOBILES, VYPIN DT 4/1/2015 AND THE REPAIRING BILL ISSUED BY S.R. AUTOMOBILES, VYPIN DT 4/1/2015.**
- P7: COPY OF THE REPLY DT 5TH JANUARY 2015 FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.561 OF 2015

Dated this the 7th 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 detention notice issued to him detaining a consignment of vitrified tiles, in a container sealed by the customs authorities, that was being transported from Willingdon Island to Koothattukulam 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 Smt.Latha.K., the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondent.

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) A perusal of Ext.P4 detention notice would indicate that although the transportation of the consignment of vitrified tiles was covered by the documents specified under the Kerala Value Added Tax Act, the respondents relied on the date on the invoice, and the date of arrival of the vehicle at the check post, to suspect a multiple transportation using the same invoice. Counsel for the petitioner would point out that the consignment was carried in a sealed container, after import from China, and hence there was no possibility of a multiple transportation of the goods covered by the invoice in question.

(ii) Taking into account the submissions of counsel for the petitioner, and considering the fact that the petitioner is a registered dealer, I direct the 2nd respondent to release the goods and the vehicle on the petitioner executing a simple bond without sureties 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/

