

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 1025 of 2015 (C)

PETITIONER :

**M/S P.T.M. TRADERS, AGED 40 YEARS,
PPX/415C, PALAKKAD, THRIPPANACHI P.O.,
MALAPPURAM DISTRICT, REPRESENTED BY ITS
PARTNER, M. MUHAMMED.**

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

RESPONDENTS :

- 1. ASST. COMMISSIONER (ASSESSMENT),
COMMERCIAL TAXES SPECIAL CIRCLE,
MALAPPURAM - 676505.**
- 2. INTELLIGENCE INSEPCTOR, SQUAD NO. III,
DEPARTMENT OF COMMERCIAL TAXES,
KOZHIKODE - 676506.**

BY SENIOR GOVERNMENT PLEADER SMT. SHOBA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 1025 of 2015 (C)

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF REGISTRATION CERTIFICATE ISSUED BY THE R1.
- P2: COPY OF DELIVERY NOTE OF THE PETITIONER DOWNLOADED
- P3: COPY OF NOTICE IN FORM NO. 17A ISSUED BY THE R2.
- P4: COPY OF LETTER SUBMITTED BY THE PETITIONER BEFORE THE R2.
- P5: COPY OF LETTER ISSUED BY THE R2.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1025 OF 2015

Dated this the 13th day of January, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P3 detention notice issued to him detaining a consignment of arecanut, that was being transported from Thrissur to Thrippanachi 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.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.P3 detention notice it is seen that the objections stated therein are that the vehicle was unloading the goods at Omassery whereas the destination in the transport

documents is shown as Thrippanachi and that there was an excess quantity of 100 bags of arecanut detected on physical verification, when compared with the details in the delivery note that was accompanying the goods. It is not in dispute, however, that the goods were being transported under cover of valid documents as contemplated under the Kerala Value Added Tax Act.

(ii) Under such circumstances and taking into account the fact that the petitioner is a registered dealer, I direct the 2nd respondent to release the consignment of the vehicle covered by Ext.P3 notice to the petitioner on his paying an amount of 25% of the security deposit amount demanded under Ext.P3 and furnishing a simple bond without sureties for the balance amount before the 2nd respondent.

(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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

