IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 1245 of 2015 (E)

PETITIONER:

MUHAMMED SABIR,
PROPRIETOR, M/S.CHALLAND TRADERS,
KOOVODE ROAD, THALIPARAMBA,
KANNUR DISTRICT.

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):
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1. **THE DISTRICT COLLECTOR,**
   KASARAGOD-671 121.

2. **THE REVENUE DIVISIONAL OFFICER,**
   KANHANGAD-671 315.

3. **THE TAHSILAR, MANJESWARAM TALUK,**
   MANJESWARAM-671 323.

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-10-2015 ALONG WITH WPC.1785/2015 & CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

EXT P1 :	THE COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER'S UNIT.
EXT P2 :	COPY OF THE CIRCULAR DATED 11-11-2010.
EXT P3 :	THE COPY OF THE ORDER DATED 01-04-2014 ISSUED BY THE TAHASILDAR, BHAPUR.
EXT P4 :	THE COPY OF THE ORDER DATED 18-12-2014 ISSUED BY THE TAHASILDAR, BHAPUR.
EXT P5 :	THE AGREEMENT ENTERED BETWEEN M/S.A.M.TRADERS AND SUJITH KUMAR SWAIN.
EXT P6 :	TRUE COPY OF THE TRANSIT PASS ISSUED TO VEHICLE NO.KA-01/AC 6394.
EXT P6 (A):	TRUE COPY OF THE TRANSIT PASS ISSUED TO VEHICLE NO.KA-01/AA 7974.
EXT P6 (B):	TRUE COPY OF THE TRANSIT PASS ISSUED TO VEHICLE NO.KA-19/AA 5295.
EXT P7 :	TRUE COPY OF THE BILL DATED 07-01-2015 ISSUED TO VEHICLE NO.KA-01/AC 6394.
EXT P7 (A):	TRUE COPY OF THE BILL DATED 07-01-2015 ISSUED TO VEHICLE NO.KA-01/AA 7974.
EXT P7 (B):	TRUE COPY OF THE BILL DATED 07-01-2015 ISSUED TO VEHICLE NO.KA-19/AA 5295.
EXT P8 :	TRUE COPY OF THE E-SUGAM FORM WITH RESPECT TO VEHICLE NO.KA-01/AC 6394.
EXT P8 (A):	TRUE COPY OF THE E-SUGAM FORM WITH RESPECT TO VEHICLE NO.KA-01/AA 7974.
EXT P8 (B):	TRUE COPY OF THE E-SUGAM FORM WITH RESPECT TO VEHICLE NO.KA-19/AA 5295.
EXT P9 :	TRUE COPY OF THE ADVANCE TAX UTILIZATION RECEIPT DATED 08-01-2015 WITH RESPECT TO VEHICLE NO.KA-01/AC 6394.
EXT P9 (A):	TRUE COPY OF THE ADVANCE TAX UTILIZATION RECEIPT DATED 08-01-2015 WITH RESPECT TO VEHICLE NO.KA-01/AA 7974.
EXT P9 (B):	TRUE COPY OF THE ADVANCE TAX UTILIZATION RECEIPT DATED 08-01-2015 WITH RESPECT TO VEHICLE NO.KA-19/AA 5295.

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EXT P10 :	**TRUE COPY OF THE DELIVERY NOTE WITH RESPECT TO VEHICLE NO.KA-01/AC 6394.**
EXT P10(A) :	**TRUE COPY OF THE DELIVERY NOTE WITH RESPECT TO VEHICLE NO.KA-01/AA 7974.**
EXT P10 (B):	**TRUE COPY OF THE DELIVERY NOTE WITH RESPECT TO VEHICLE NO.KA-19/AA 5295.**

RESPONDENT(S)' EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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W.P.(C).Nos.1245/2015, 1785/2015, 2526/2015, 3385/2015, 12204/2015, 16529/2015, 17407/2015, 18635/2015, 18632/2015, 19745/2015, 21782/2015, 31566/2015, 31571/2015, 31958/2015, 32376/2015, 32673/2015, 32704/2015, 32708/2015, 32709/2015 & 32887/2015

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Dated this the 30th Day of October, 2015

J U D G M E N T

The writ petitions are filed by transporters of sand from outside the State and also the perspective transporters.

2. The petitioners submit that the Officials attached to the State cannot detain the vehicles for transporting sand from outside the State. In most of the cases, the vehicles have been detained by the Police Officials or Check Post Authorities. According to the petitioners, the detention of the vehicles for transporting sand from outside the State is outside the scope of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001.

3. This Court passed interim orders in all the cases where there is detention to release the vehicles on being satisfied that there are sufficient documents to show transportation of sand from outside the State and also proof of payment of VAT for transportation.

4. It is to be noted that the Government issued circular No.58289/P/2010/Revenue, dated 11-11-2010, wherein taking serious note of detention of the vehicles for transporting sand from outside the State, the Government ordered that, unnecessarily, the vehicles shall not be detained. The Government has prescribed in the above circular that if the vehicles have necessary documents to show payment of VAT at 4%, the vehicles shall not be detained. It is to be noted that the Government also deprecated the practice of illegal detention of vehicles transporting sand from outside the State, if the vehicles have necessary documents. This itself would show that transportation of sand is permitted from outside the State.

5. In that scenario any detention of the vehicles bringing sand from outside the State amounts to impairing right of freedom of trade throughout India as provided under the Constitution. Therefore, in cases where detention of the vehicles have taken place and there are interim orders, that interim orders are made absolute; and in cases where the vehicles have not been released and if the petitioners are having necessary proof of entry through check-post and proof of payment of 4% VAT, the vehicles detained for transporting sand from outside the State shall be released to the petitioners and to such persons who have brought sand from outside the State.

6. The Police Authorities or other Authorities shall not interfere, if the petitioners have necessary proof of entry through check-post and also proof of payment of VAT.

7. The petitioners in W.P.(C).Nos.1245/2015, 1785/2015, 2526/2015, 3385/2015, 12204/2015, 17404/2015 & 32887/2015 have a case that they are dealers of sand brought from outside the State. It is made clear that if the petitioners are having sufficient Panchayat licence and proof of payment of 4% VAT, proof of check-post entries relating to sand held by him, the Police Officials or the Revenue Officials shall not interfere with it.

The writ petitions are disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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