

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 1615 of 2015 (B)

PETITIONER(S):

**AMAN CHOUHAN, MANAGING DIRECTOR,
REPRESENTING M/S.INTERNATIONAL AIRCON PVRT.LTD.,
EMIR PLAZA, 36/2845 B2, KALOOR KADAVANTHARA ROAD, ERNAKULAM.**

**BY ADVS.SRI.C.A.SADASIVAN
SRI.JOY P JOSE
SRI.SOJAN MATHEW
SRI.K.N.KRISHNAN NAMBOOTHIRI
SRI.C.V.SASI
SRI.K.JAYAMOHANAN PILLAI**

RESPONDENT(S):

- 1. SECRETARY (TAXES), KERALA,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM,
REPRESENTING STATE OF KERALA, PIN -695001.**
- 2. COMMERCIAL TAX OFFICER,
2ND CIRCLE, KALAMASSERY AT KAKKANAD,
ERNAKULAM, PIN-682030.**
- 3. INTELLIGENCE INSPECTOR,
SQUAD NO.IV, COMMERCIAL TAXES,
ERNAKULAM OFFICE OF THE DY.COMMISSIONER (INT)
EDAPPALLY, KOCHI-682024.**
- 4. INSPECTING ASST.COMMISSIONER,
COMMERCIAL TAX CHECK POST, WALAYAR,
PALAKKAD-678624.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY PF REGISTRATION CERTIFICATE ISSUED BY 2ND RESPONDENT DATED 8/11/13**
- P2: COPY OF THE INVOICE NO.1733 DT.3/1/15**
- P3: COPY OF THE FORM 8F DECLARATION ISSUED BY THE R2**
- P4: COPY OF THE O.R NOTICE NO.690/14-15 DT.7/1/15 ISSUED BY R3**
- P5: COPY OF THE DETAILED EXPLANATION DT.13/1/15 FILED BEFORE R3.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1615 OF 2015

Dated this the 16th 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.P4 detention notice issued to him detaining a consignment of air conditioning units, that was being transported from Mumbai to Cochin 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.C.A.Sadasivan, 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.P4 notice, it is seen that the consignment of goods that was said to be stock transferred from Mumbai to Kerala, was not accompanied by a delivery note as

required by the provisions of the Kerala Value Added Tax Act. In that view of the matter, the detention of the goods by the respondents cannot be said to be irregular.

(ii) I take note of the fact, however, that the petitioner is a registered dealer in the State and direct the 3rd respondent to release the consignment and the vehicle on the petitioner paying 25% of the security deposit demanded in Ext.P4 notice, and executing a simple bond without surety, for the balance amount therein, 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

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