

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 2119 of 2015 (L)

PETITIONER :

**P.M. TRADING COMPANY,
42/1328A, K.K.PADMANABHAN ROAD,
POWER HOUSE JUNCTION, KOCHI-18,
REPRESENTED BY ITS PROPRIETOR, P.CHINNA MASTHAN.**

**BY ADVS.SRI.VIJAYAN. K.U.
SRI.K.V.VIMAL**

RESPONDENT(S):

- 1. INTELLIGENCE INSPECTOR,
SQUAD NO.II, COMMERCIAL TAXES, WAYANAD,
KALPETTA, PIN-673 181.**
- 2. STATE OF KERALA,
REPRESENTED BY THE SECRETARY (TAXES),
GOVT. SECRETARIAT, THIRUVANANTHAPURAM-695 001**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.2119/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE TIN CERTIFICATE**
- P2 COPY OF THE INVOICE NO.T236 DATED 16/01/2015 ISSUED BY THE
CONSIGNOR.**
- P3 COPY OF THE NOTICE NO.OR 433/VC II 14-15 DATED 18/01/2015 ISSUED BY
THE 1ST RESPONDENT.**
- P4 COPY OF THE EXPLANATIONS DATED 19/01/2015 SUBMITTED TO THE 1ST
RESPONDENT**
- P5 COPY OF THE INVOICE NO.T235 DATED 14/01/2015 ISSUED BY OM TRADING
COMPANY AND CLEARED BY THE CHECK POST AUTHORITY ON 16/01/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.2119 of 2015

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Dated this the 21st day of January, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act (hereinafter referred to as 'the KVAT Act') is aggrieved by Ext.P3 notice issued to him, detaining a consignment of dry grapes that was being transported from Madhya Pradesh 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.K.U.Vijayan, 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 notice it is seen that the objection of the respondents is with regard to the alleged under valuation of

the consignment, as also the fact that there was 750 kgs of dry grapes found in excess. It is for these reasons that the goods were detained and a security deposit demanded. On a close scrutiny of notice, however, it is seen that the respondents have, after noticing an alleged under valuation, proceeded to estimate the value at an exorbitant figure and demand security deposit based on the enhanced value.

(ii) I also take note of the fact that the petitioner is a registered dealer in the State and that there was no dispute with regard to the consignment being accompanied by the documents prescribed under the KVAT Act. I, therefore, direct the 1st respondent to release the goods and the vehicle to the petitioner on his paying 25% of the security deposit demanded in Ext.P3 notice and furnishing a simple bond without sureties for the balance amount demanded therein before the 1st respondent.

(iii) The 1st respondent 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

mns/

