

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. 2163 of 2015 (U)

PETITIONER(S):

**M/S. EXCELSIOR MOTORS PVT. LTD.,
NEAR TO AUDI SHOW ROOM, 5, MARADU,
VYTTILLA, ERNAKULAM 682 304, REPRESENTED BY
ITS DIRECTOR MR.BHARATH K PATEL.**

BY ADV. SMT.K.LATHA

RESPONDENT(S):

**1. THE STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM 695 001.**

**2.THE COMMERCIAL TAX OFFICER, DEPARTMENT OF
COMMERCIAL TAXES, SPECIAL CIRCLE-III, ERNAKULAM 682 015.**

**3.THE INTELLIGENCE OFFICER, OFFICE OF THE INTELLIGENCE
OFFICER, SQUAD NO.II, MATTANCHERRY AT KARUKUTTY,
CAMP AT NEDUMBASSERY, 682 011.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

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

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE CERTIFICATE OF REGISTRATION OF THE PETITIONER IN FORM 1A UNDER KERALA VALUE ADDED TAX RULES, 2005 DATED 17.5.2012 ISSUED BY THE SECOND RESPONDENT.

EXT.P2: COPY OF THE INVOICE DATED 13.1.2015 ALONG WITH FORM NO.8FA DATED 13.1.2015 AT 6.00 P.ML

EXT.P3: COPY OF THE DETENTION NOTICE OR NO.701/2014-15 DATED 17.1.2015 ISSUED BY THE THIRD RESPONDENT U/S 47(2) OF THE KVAT ACT TO THE PETITIONER.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.2163 OF 2015 (U)

Dated this the 21st day of January, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P3 notice issued to him, detaining a consignment of automobile spare parts, that was being transported from Nedumbassery to Maradu at his instance, at Athani. 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 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 objection of the respondents is primarily

that the transportation of the goods was not accompanied by the prescribed copy of the invoice and what accompanied the goods was only a photocopy of the invoice. Inasmuch as the document that accompanied the transportation of the goods is not the one prescribed under the KVAT Act, the detention of the goods cannot be said to be unjustified.

(ii) Taking note of the fact, however, that the petitioner is a registered dealer within the State, I direct the 3rd respondent to release the consignment of goods and the vehicle subject to the petitioner paying 25% of the security deposit in Ext.P3, and furnishing a simple bond without sureties before the said respondent, for the balance amount demanded in Ext.P3 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 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

prp