

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 2164 of 2015 (U)

PETITIONER(S):

**M/S. AGS TRANSACT TECHNOLOGIES PVT. LTD NO.CC
34/973 A, PALLIKAVIL BUILDINGS, OPPOSITE TO EDAPPALLY
CORPORATION OFFICE, ANJUMANA TEMPLE ROAD,
EDAPPALLY POST, ERNAKULAM 682024, REPRESENTED BY ITS
SENIOR MANAGER MR.MOHANDAS.**

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, KVATFIRST CIRCLE,
COMMERCIAL TAXES, THIRIPUNITHURA, ERNAKULAM 682 019.**

**3.THE COMMERCIAL TAX INSPECTOR, COMMERCIAL TAXES
CHECK POST, GOPALAPURAM. 678 101.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER UNDER KERALA VALUE TAX ACT DATED 30.12.2008 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

EXT.P2: COPY OF THE WORK ORDER NO.RA/GT-07/SR/WO/14-15/LOT-B/08 (A) ISSUED BY INDIAN OIL CORPORATION, MUMBAI TO THE PETITIONER COMPANY'S MUMBAI OFFICE.

EXT.P3: COPY OF THE WORK ORDER NO.RA/GT-07/SR/WO/14-15/LOT-B/08 (B) ISSUED BY INDIAN OIL CORPORATION, MUMBAI TO THE PETITIONER COMPANY'S MUMBAI OFFICE.

EXT.P4: COPY OF THE FORM 8F ISSUED BY THE PETITIONER DATED 9TH JANUARY 2015 AT 3.32 PM AND AT 3.40 PM.

EXT.P5: COPY OF THE DETENTION NOTICE OR NO.1395/2014-15 DATED 11.1.2015 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.2164 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.P5 notice issued to him, detaining a consignment of “UPS with battery and thermal printers” that was being transported from Pondicherry to the various outlets of IOCL in Kerala at his instance, at Gopalapuram Check post. 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.P5 detention notice, I note that the main objection of the respondents is that the petitioner was not a registered dealer under the KVAT Act. The petitioner has however produced Ext.P1 registration certificate issued to him under the KVAT Act along with the writ petition.

(ii) Taking note of the fact 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 furnishing a simple bond without sureties for the security deposit demanded in Ext.P5 detention notice, before the said 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

prp