

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. 2165 of 2015 (U)

PETITIONER(S):

**M/S. ATTIRE BUSINESS CORPORATION,
DOOR NO.201, ACHU'S APARTMENTS, H1/58/4 CIVIL LANE,
AYYANTHOLE, TRICHUR, REPRESENTED BY ITS MANAGER
MR.RINOY**

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, IIND CIRCLE, TRISSUR 680 001.**

**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:**

W.P.(C).NO.2165/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REGISTRATION RENEWAL E-CHELLAN RECEIPT OF THE PETITIONER UNDER KERALA VALUE TAX RULES, 2005.

EXT.P2: COPY OF THE INVOICE NO.GGN-S11356 DATED 14.1.2015 ALONG WITH FORM NO.8FA DATED 15.1.2015 AT 10.17 AM.00 P.M.

EXT.P3: COPY OF THE DETENTION NOTICE OR NO.702/2014-15 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.2165 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 watches that was being transported from Gurgaon to Cochin at his instance, at Nedumbaserry. 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 with regard to the date/time shown in Form 8F declaration and the date/time at which the goods were detained. The respondents suspected a multiple transportation of

the goods using the same document. It is in that connection that the goods were detained. I note however, that in the instant case, the goods were sent from Gurgaon by flight and it is the case of the petitioner that there was a delay occasioned in the clearing of the goods from the Airport, and subsequent transportation, and that was what led to the detention of the goods while in transit.

(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 furnishing a simple bond without sureties for the security deposit demanded in Ext.P3 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