

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 2225 of 2015 (C)

PETITIONER:

**ANAS K, SON OF ABDUL REHIM,
AGED 35 YEARS, PROPRIETOR,
GLOBAL STEELS, PARAPPIRIVU,
KANJIKODE PALAKKAD.**

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NUMBER III, COMMERCIAL TAXES,
PALAKKAD, PIN - 678 001.**
- 2. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX OFFICE, MANJERI,
MALAPPURAM, PIN - 676 121.**

BY SENIOR GOVT. PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : A TRUE COPY OF THE INVOICE RELATING TO THE TRANSACTION.

**EXHIBIT P2 : A TRUE COPY OF THE DELIVERY NOTE ACCOMPANYING THE
CONSIGNMENT.**

**EXHIBIT P3 : A TRUE COPY OF THE LETTER DATED JANUARY 20, 2015 ISSUED BY
THE PETITIONER.**

**EXHIBIT P4 : A TRUE COPY OF THE NOTICE DATED JANUARY 20, 2015 ISSUED BY
THE FIRST RESPONDENT.**

RESPONDENT'S EXHIBITS:

- NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.2225 of 2015 (C)

.....
Dated this the 22nd day of January, 2015

JUDGMENT

The petitioner is a registered dealer under the provisions of the Kerala Value Added Tax Act, 2003. The case of the petitioner is that, a consignment of iron and steel that was transported from the premises of Ocean steels, Kanjikode to the premises of the petitioner at Kanjikode was thereafter diverted by the petitioner to the premises of M.K.Steels, for the purposes of weighment. While the goods were on the way to M.K.Steels for the purposes of weighment, the consignment was intercepted by the respondents and Ext.P4 detention notice was issued to the petitioner. 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.Jacob Sebastian, 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 detention notice, it is seen that the objection of the respondents is that the driver of the vehicle had, on interception, stated that the goods were being taken to M.K.Steels for weighment. On a perusal of the delivery note that accompanied the goods, however, it was seen that the goods were consigned to the petitioner from M/s.Ocean Steels and therefore the transportation should have ended at the premises of the petitioner. The case of the petitioner is that, further transportation to M.K.Steels was only for the purposes of weighment, since the petitioner doubted the correctness of the quantity shown in the delivery note that accompanied the transportation of the goods from M/s.Ocean Steels to its premises. Although, it was stated by the driver of the vehicle that, the goods were sent to the premises of M.K.Steels only for the purposes of weighment, the fact remains that the movement of the goods from the petitioner's premises, after the receipt of the goods from Ocean steels, to the premises of M.K.Steels was not covered by any delivery note as envisaged under the KVAT Act and Rules. In that view of the matter, the suspicion of the respondents cannot be said to be unjustified. I take note of the fact, however, that the petitioner is a registered dealer within the State and direct the first respondent to

release the consignment and the vehicle, subject to the petitioner paying 25% of the amount demanded as security deposit in Ext.P4 notice and executing a simple bond without sureties for the balance amount therein before the first respondent.

(ii) 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondents.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/22/01/

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