IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C).No. 2522 of 2015 (M)

PETITIONER :

SELVAM, AGED 35 YEARS, PROPRIETOR,
S/O. PAZHANI, M/S. MARVEL GRANITES,
CHANGARAMKULAM, V/826B, CVS COMPLEX,
CHANGARAMKULAM.

BY ADVS.SRI.C.K.SREEJITH
SMT.MARY RANZOM LOUIZ
SRI.BOBBYMATHEW KOOTHATTUKULAM
SRI.P.J.SONY
SRI.K.V.RADHAKRISHNAN (MADURAI)

RESPONDENTS :
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1. INTELLIGENCE OFFICER, SQUAD NO. I,
   DEPARTMENT OF COMMERCIA TAXES, THRISSUR - 680001

2. INSPECTING ASSISTANT COMMISSIONER,
   WALAYAR - 678624.

3. COMMERCIAL TAX OFFICER, MALAPPURAM - 676505.

4. STATE OF KERALA, REP. BY SECRETARY TO GOVT.
   TAXES DEPARTMENT, TRIVANDRUM 695001.

5. COMMISSIONER, COMMERCIAL TAX OFFICE,
   DEPARTMENT OF COMMERCIAL TAXES,
   VIKAS BHAVAN, TRIVANDRUM - 695033.

BY GOVERNMENT PLEADER SMT. LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 2522 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBTIS :

P1: COPY OF THE INVOICE NO. 47 DT 19/1/2015 ISSUED BY M/S. DEVI GRANITES, DWARAKAPURAM VILLAGE, KANIPAKAM POST, CHITTTOOR DIST.

P2: COPY OF THE NOTICE U/S. 47(2) OF THE KERALA VALUE ADDED TAX ACT DT 21/1/2015.

P3: COPY OF THE CIRCULAR NO. 18/2012 ISSUED BY THE R5 DT 23/6/2012.

P4: COPY OF THE ADVANCE TAX UTILIZATION RECEIPT DT 21/1/2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.2522 of 2015 (M)

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Dated this the 23rd 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 polished granite slabs, that was being transported from Chittoor to Alancode at his instance, was intercepted by the respondents at CTCP, Walayar and Ext.P2 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.C.K.Sreejith, the learned counsel for the petitioner and Smt.Lilly K.T., 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.P2, it is seen that, the finding of the respondents is that on physical verification there was an excess quantity of 592 sq.ft of granite slabs detected. In that view of the

matter, the detention on the part of the respondents cannot be said to be unjustified. I take note, however, of the fact that the petitioner is a registered dealer, and direct the first respondent to release the goods and vehicle on the petitioner paying 50% of the security deposit demanded in Ext.P2 demand notice and executing a simple bond, without sureties, for the balance amounts 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/23/01/

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