

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 2764 of 2015 (U)

PETITIONER :

**ABUBACKER SIDHEEQ,
S/O. MOIDEENKUTTY HAJI, AGED 43 YEARS,
ANNACHAMPALLI HOUSE, KOTT,
POST TIRUR, MALAPPURAM DISTRICT.**

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REP. BY THE SECRETARY, COMMERCIAL TAXES DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE INTELLIGENCE INSPECTOR FOR CO-SQUAD NO.V,
COMMERCIAL TAXES, KASARAGOD. PIN-675 001**

R1 & R2 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 2764 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE ELECTORAL IDENTITY CARD OF THE PETITIONER
DTD. 1.9.2010.**
- P2 : COPY OF THE BUILDING PERMIT ISSUED BY TIRUR MUNICIPALITY,
DTD. 4.8.2011.**
- P3 : COPY OF THE INVOICE ISSUED BY M/S. VELCA RACKING SYSTEMS PVT. LTD.,
DTD. 17.1.2015.**
- P4 : COPY OF THE FORM NO.16 SUBMITTED BEFORE THE SALES TAX
DEPARTMENT.**
- P5 : COPY OF THE ORDER ISSUED BY THE SECOND RESPONDENT DTD. 23.1.2015.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.2764 of 2015 (U)

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Dated this the 28th day of January, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P5 detention notice whereby a consignment of Rack Rails was detained by the respondents at Manjeswarom during the course of transportation from Gurgaon to Malappuram at the instance of 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.M.Mohammed Iquabal, 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, it is seen that, the objection of the respondents is with regard to the Form-16 document that accompanied the transportation of the goods. It is the case of the respondents that the Form -16 was incomplete, and only a photocopy of the said incomplete Form-16 was produced before the

respondents, when the consignment was detained. It is the specific case of the petitioner that, the goods in question were being brought to Malappuram for the purposes of setting up a showroom, and the petitioner also produced a plan of the proposed showroom to substantiate his contentions. Taking note of the submissions on behalf of the petitioner, that the goods in question were intended for his own use and that he does not propose to trade in the said goods within the State, I direct the second respondent to release the goods and vehicle, on condition that the petitioner pays 25% of the amount demanded as security deposit in Ext.P5 notice, and executes a simple bond without sureties for the balance amount therein, before the second 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