

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 3298 of 2015 (J)

PETITIONER :

**JOSE MATHEW, AGED 47 YEARS,
PROPRIETOR, J.S. TRADING COMPANY,
XVIII/474-475, MARATHAKKARA, THRISSUR.**

**BY ADVS.SMT.S.K.DEVI
SRI.SANTHOSH P.ABRAHAM**

RESPONDENTS :

- 1. THE INTELLIGENCE INSPECTOR, SQUAD NO. III,
DEPARTMENT OF COMMERCIAL TAXES,
MALAPPURAM AT KOTTACKAL, CAMP AT WALAYAR - 676505.**
- 2. THE INTELLIGENCE OFFICER, DEPARTMENT OF COMMERCIAL TAXES,
SQUAD NO. III, MALPPURAM AT KOTTAKKAL - 676505.**
- 3. THE COMMERCIAL TAX OFFICER, COMMERCIAL TAX
CHECK POST, WALAYAR - 678625.**
- 4. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAX CHECK POST, WALAYAR - 678625.**
- 5. THE ASSISTANT COMMISSIONER, DEPARTMENT OF COMMERCIAL
TAXES, SPECIAL CIRCLE, THRISSUR - 680003.**

BY SENIOR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 3298 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE DELIVERY NOTE D/N 320802/DN/94544/14 DT 29/1/2015.**
- P2: COPY OF THE DEBIT NOTE DT 29/1/2015.**
- P3: COPY OF THE E-CONSIGNMENT DECLARATION IN FORM 8F DT 29/1/2015.**
- P4: COPY OF THE NOTICE IN FORM 17A NO.VC-III/2014-15/B-42 DT 30/1/2015
ISSUED BY THE R1.**
- P5: COPY OF THE EXPLANATION DT 30/1/2015 SUBMITTED BY THE PETITIONER
BEFORE THE R2.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.3298 of 2015 (J)

.....
Dated this the 2nd day of February, 2015

JUDGMENT

The petitioner is a registered dealer under the provisions of the Kerala Value Added Tax Act, 2003 & Central Sales Tax Act. Petitioner is aggrieved by Ext.P4 detention notice whereby a consignment of marble slabs, that was being returned to the original consignor at Bangalore, was detained at the check-post at Walayar. 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.s.K.Devi, 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 essentially with regard to the fact that the goods, that were being returned to Bangalore as purchase returns, were not accompanied by the original purchase invoice. I take note, however, of the fact

that the petitioner is a registered dealer in the State, and in the Form-8F declaration that was filed, he had indicated that the nature of the transaction was an interstate purchase return and he had also given the details of the invoice under cover of which the goods were being transported. The quantity shown in the Form-8F declaration tallies with the details regarding the quantity of marble slabs in the delivery note that accompanied the goods. I therefore, direct the 3rd respondent to release the goods and vehicle on the petitioner furnishing a simple bond without sureties for the security amount demanded in Ext.P4 detention notice.

(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/02/02/

