

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 3619 of 2015 (B)

PETITIONER :

**BIJU P. VARGHESE, S/O.VARGHESE,
ROSE COTTAGE, COCHIN UNIVERSITY,
KALAMASSERY, ERNAKULAM DISTRICT.**

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S):

- 1. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, WALAYAR-678 624.**
- 2. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAX CHECK POST, WALAYAR-678 624.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAX CHECK POST, WALAYAR-678 624.**
- 4. STATE OF KERALA,
REP. BY SECRETARY TO GOVT.,
COMMERCIAL TAX DEPARTMENT, GOVT. SECRETARIAT,
TRIVANDRUM-695 001.**

R1 TO R4 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 3619 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 :** TRUE COPY OF THE BUILDING PERMIT ISSUED BY THE
KALAMASSERY MUNICIPALITY DT. 9-5-14.
- EXT.P2 :** TRUE COPY OF THE CERTIFICATE ISSUED BY THE THRIKKAKKARA
VILLAGE OFFICER.
- EXT.P3 :** TRUE COPY OF THE INVOICE NO.204 ISSUED BY M/S.VIJAYALAKSHMI
GRANITES DT. 30-1-15.
- EXT.P4 :** TRUE COPY OF THE NOTICE U/S.47(2) OF KVAT ACT DT. 1-2-15.
- EXT.P5 :** TRUE COPY OF THE CIRCULAR NO.3/2015 DT. 14-1-15.
- EXT.P6 :** TRUE COPY OF THE FORM 16 DECLARATION DT. 30-1-15.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 3619 of 2015 (B)

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Dated this the 5th day of February, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P4 detention notice whereby a consignment of marble slabs, that was being transported from Housur, Karnataka to Kalamassery, Ernakulam, at the instance of the petitioner, 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.C.K.Sreejith, 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 petitioner had not produced the online Form-16 along with the consignment. In the instant case, I find, however, that the transportation was accompanied by an invoice dated 30.01.2015; which shows the payment of tax by the petitioner

in Karnataka and further transportation was also accompanied by a manual Form-16 declaration. Under these circumstances, although, the petitioner is not a registered dealer in the State, I direct the 1st respondent to release the goods and vehicle on the petitioner furnishing a simple bond without sureties for the security deposit amount, if any, 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 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/05/02/