

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

WP(C).No. 3772 of 2015 (V)

PETITIONER :

**M/S. SOUTHERN AIR PRODUCTS,
MANNA, TALIPARAMBA, KANNUR-670 142,
AUTHORIZED DEALER IN KERALA OF INOX AIR PRODUCTS,
KANNAKOIL-BAHOUR MAIN ROAD, MANAPET POST,
PUDUCHERRY, REPRESENTED BY ITS MANAGING PARTNER,
MR.VIJAY KUMAR NAMBIAR.**

BY ADV. SRI.RAJESH NAMBIAR

RESPONDENT :

**INTELLIGENCE OFFICER,
SQUAD NO.1, DEPT. OF COMMERCIAL TAXES,
MATTANCHERRY AT ALUVA-683 101**

BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR.S

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE PURCHASE ORDER RECEIVED FROM WEST FORT HI-TECH HOSPITAL.**
- P2 COPY OF THE PURCHASE ORDER RECEIVED FROM ELITE MISSION HOSPITAL**
- P3 COPY OF THE NOTICE DATED 3/02/2015 ISSUED U/S. 47 OF THE KVAT ACT IN RESPECT OF EXT.P1**
- P4 COPY OF THE NOTICE DATED 3/02/2015 ISSUED U/S. 47 OF THE KVAT ACT IN RESPECT OF EXT.P2**
- P5 COPY OF THE FORM 16 DECLARATION ACCOMPANYING THE GOODS DETAINED VIDE EXT.P3 NOTICE**
- P6 COPY OF THE FORM 16 DECLARATION ACCOMPANYING THE GOODS DETAINED VIDE EXT.P4 NOTICE**
- P7 COPY OF THE 8F DECLARATION IN RESPECT OF THE GOODS DETAINED VIDE EXT.P3 NOTICE**
- P8 COPY OF THE 8F DECLARATION IN RESPECT OF THE GOODS DETAINED VIDE EXT.P4 NOTICE**
- P9 COPY OF THE DECLARATION ISSUED BY THE CONSIGNOR IN RESPECT OF GOODS DETAINED BY EXT.P3 NOTICE**
- P10 COPY OF THE DECLARATION ISSUED BY THE CONSIGNOR IN RESPECT OF GOODS DETAINED BY EXT.P4 NOTICE**
- P11 COPY OF THE DECLARATION ISSUED BY THE CONSIGNEE IN RESPE OF GOODS DETAINED BY EXT.P3 NOTICE**
- P12 COPY OF THE DECLARATION ISSUED BY THE CONSIGNEE IN RESPECT OF GOODS DETAINED BY EXT.P4 NOTICE**
- P13 COPY OF THE AUTHORIZATION LETTER.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.3772 of 2015 (V)
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Dated this the 6th day of February, 2015

JUDGMENT

The petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003. The petitioner is aggrieved by Exts.P3 and P4 notices, which were issued to him in connection with the detention of a consignment, comprising of two storage tanks that were meant for installation at two hospitals in Trissur. The goods that were being transported at the instance of the petitioner were detained at the check-post at Walayar. In the writ petition the petitioner is aggrieved by the insistence of the respondent 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.Rajesh Nambiar, the learned counsel for the petitioner and Sri. Sudheesh Kumar S., the learned Government Pleader for the respondent.

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 Exts.P3 and P4, it is seen that, the objection of the respondents is essentially with regard to the discrepancy noted in the documents,

that accompanied the transportation. It was seen that, while there was a chalan that was issued in the name of the hospitals concerned and a manual Form -16 issued by the said hospital, there was no invoice in the name of the hospitals, to indicate that there had been a transfer of the ownership of the goods to the hospitals. The delivery chalan suggested that the movement of the goods was not pursuant to a sale. Under those circumstances, the suspicion on the part of the respondent cannot be said to be unjustified. I take note of the fact, however, that the petitioner is a registered dealer within the State and he is also an authorised dealer of the consignor in Puducherry, I therefore, direct the respondent to release the goods and vehicle bearing registration No.KA-03C-643, on condition that the petitioner pays 25% of the security amounts demanded in Exts.P3 and P4 detention notices, and furnishes a simple bond without sureties for the balance amounts demanded therein.

(ii) The respondent 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 respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE