

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 4182 of 2015 (W)

PETITIONER :

**MEENA, W/O.RAMKISHAN,
VPO DATHOLI, GANAUR, SONIPET DISTRICT,
HARIYANA.**

BY ADV. SRI.R.SUDHAKARA MENON

RESPONDENT(S):

- 1. STATE OF KERALA,
REP. BY ITS SECRETARY, DEPARTMENT OF TAXES,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -695 001.**
- 2. INTELLIGENCE OFFICER,
SQUAD NO.1, COMMERCIAL TAX, KOZHIKKODE- 673 006.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 4182 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- PHOTOCOPY OF THE R.C.BOOK OF VEHICLE NO. HR-69/B-6209**
- P2- PHOTOCOPY OF THE NOTICE UNDER SECTION 47(2) OF THE KERALA VALUE
 ADDED TAX ACT, 2003 DATED 13.09.2014 ISSUED BY THE 2ND RESPONDENT**
- P2(A)- TRUE PHOTOCOPY OF THE HANDWRITTEN PORTION OF THE DEFECTS FOR
 RETAINING HTE GOODS AND VEHICLE AS PER EXHIBIT P2 NOITCE**
- P3- PHOTOCOPY OF THE PETITION DATED 30.12.2014 FILED BEFORE THE 2ND
 RESPONDENT REQUESTING FOR RELEASE OF THE GOODS VEHICLE BY THE
 PETIITONER**
- P4- TRUE PHOTOCOPY OF THE JUDGMENT IN WP(C) NO.3409/2014 DATED
 06.02.2014**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.4182 of 2015

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Dated this the 12th day of February, 2015

JUDGMENT

The petitioner is the owner of a goods vehicle bearing registration number HR-69/B-6209. The case of the petitioner in the writ petition is that while his vehicle was used for transportation of certain goods, the vehicle came to be detained by the 2nd respondent in connection with tax dues under the Kerala Value Added Tax Act for the goods carried in the vehicle. It is the case of the petitioner that although notices have been issued to the owner of the goods by the 2nd respondent, no one has turned up to claim the goods and resultantly, the goods and the vehicle has detained by the 2nd respondent at Walayar check post. In the writ petition, the petitioner seeks a direction to the 2nd respondent to release the vehicle after having the goods unloaded at a site to be identified by the 2nd respondent.

2. I have heard Sri.R.Sudhakara Menon, 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 as also the submissions made across the bar, I note that the

objection of the 2nd respondent is only with regard to the goods that were transported in the vehicle. In as much as notices have been issued to the owner of the goods, and he has not responded to the said notice, any action that is to be taken by the 2nd respondent can only be in respect of the goods carried in the vehicle and not with respect to the vehicle itself. Under these circumstances, I direct the 2nd respondent to release the vehicle to the petitioner, after unloading the goods contained therein at the expense of the petitioner at a place to be identified by the 2nd respondent. I make it clear that, it will be open to the petitioner to proceed against the hirer of the vehicle if any loss has been sustained by him on account of the detention. The petitioner shall produce a copy of the judgment along with copy of the writ petition before the 2nd respondent for obtaining an expeditious release of the vehicle.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

