

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 4194 of 2015 (Y)

PETITIONER :

**M/S.TUONO MOTORS PVT.LTD.,
NO. 2987/1, TEMPLE ROAD, V.V.MOHALLA, MYSORE -570002,
REPRESENTED BY ITS BUSINESS DEVELOPMENT MANAGER,
SRI. CRAIG PARKER.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENTS :

- 1. INTELLIGENCE INSPECTOR, COMMERCIAL TAXES,
PERINTHALMANNA, MALAPPURAM DISTRICT - 679322**
- 2. COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES CHECK POST,
VAZHIKADAVU, MALAPPURAM DISTRICT - 679333**
- 3. STATE OF KERALA, REPRESENTED BY SECRETARY TO
GOVERNMENT TAXES DEPARTMETN, SECRETARIAT,
THIRUVANANDAPURAM - 695001.**

BY SENIOR GOVERNMENT PLEADER SMT. SHOBA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF INVOICE NO.1200002587 DT 17/09/2013 FOR THE PURCHASE OF 11 SUPER BIKES MADE BY THE PETITIONER FROM M/S. PIAGGIO VEHICLES PRIVATE LTD.PUNE.**
- P2: COPY OF DECLARATION DT 14/1/2015, OF ORGANIZER OF EVENT MANAGEMENT, MUMBARI, IN FIXING ADVANCE DISPLAY PROGRAM FOR SUPER BIKES FOR THE SPONSOR PIAGGIO VEHICLES PVT. LTD, WHICH INCLUDES 'OBERON MALL' COCHIN ON 4/2/2015.**
- P3: COPY OF NO OBJECTION CERTIFICATE DT 22/1/2015 ISSUED BY OBERON MALL, COCHIN IN ACCORDANCE WITH EXT P2.**
- P4: COPY OF PERMISSION NO. 35/15/MIC/F3 DT 3/2/2015 ISSUED TO OBERN MALL, COCHIN FOR LOUD SPEAKER USAGE FOR MIKE ANNOUNCEMENT WHILE DISPLAY TO THE CONDUCTED BETWEEN 5 PM TP 10 PM ON 4/2/2015.**
- P5: COPY OF FROM NO. 16 DT 3/2/2015 CERTIFICATE OF WONERSHIP PREPARED AND CARRIED IN THE VEHICLE FOR THE DISPLAY OF THE BIKES IN COCHIN.**
- P6: COPY F DECLARATION FOR DISPLAY OF THE TWO SUPER BKES WITH ENGINE AND CHASSIS NUMBERS CARRIED BY THE PETITIONER ALONG WITH EXT P1 AND P5.**
- P7: COPY OF NOTICE DT 4/2/2015 ISSUED AT 10 AM, BY THE R1 TO THE DRIVER OF THE CARRY VEHIELE, U/S. 47(2) OF THE KVAT ACT, DEMANDING SECURITY DEPOSIT AND MADE OVER TO R2.**
- P8: COPY OF LETTER DT 7/2/2015 SUBMITTED BY THE PETITIONER BEFORE THE R2 AT THE DIRECTION OF R1, ALONG WITH THE DOCUMENTS TO CLEAR THE SUSPICION OF THE R1 IN EXT P7, WITH A REQUEST FOR PERMITTING RETURN OF THE BIKES TO BASE AT BANGALORE, SINCE THE PURPOSE OF DISPLAY DATE IN OVER, IN THE MEANWHILE**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.4194 of 2015 ()

.....
Dated this the 10th day of February, 2015

JUDGMENT

The petitioner, a private limited company based in Bangalore, is aggrieved by Ext.P7 detention notice issued under Section 47(2) of the Kerala Value Added Tax Act, 2003, whereby a consignment comprising of two imported motor bikes, was detained by the respondents at the Vazhikadavu check-post. 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. It is seen that, the vehicles were meant to be brought to Cochin for display at the premises of Oberon Mall in connection with an exhibition.

2. It is submitted by the learned counsel for the petitioner that, on account of the detention of the vehicle on 04.02.2015, the same could not be brought to Cochin for the exhibition, hence, he does not now wish to transport the vehicle to Cochin, and would like to have the vehicles returned to Bangalore. It is under these circumstances, that he seeks permission for release of the goods and vehicle from the respondents.
2. Heard Sri.Tomson T.Emmanuel, 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 find that the petitioner does not

now intend to bring the vehicle to Kerala, and hence, there is no occasion for detention at the instance of the respondents for payment of any tax under the Kerala Value Added Tax Act, 2003. Insofar as, the petitioner now wants to return the vehicles to Bangalore, I direct the 2nd respondent to release the goods and vehicle bearing registration No.KA-01-AA-5054; to the petitioner herein, on condition that the petitioner furnishes a simple bond without sureties for the security deposit amount demanded in Ext.P7 detention notice before the 2nd respondent.

4. 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.

The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 2nd respondent.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/10/02/