

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 4325 of 2015 (M)

PETITIONER(S) :

**M/S. AUTO FIT CAR INTERIORS PVT. LTD.,
PLOT NO.19-22A, KINFRA PARK, KORATTY,
THRISSUR, REPRESENTED BY NAUSHAD A.J,
AUTHORISED SIGNATORY.**

**BY ADVS.SRI.P.M.GIRIJAVALLABHAN
SRI.VINOD JABAR**

RESPONDENT(S) :

- 1. COMMERCIAL TAX OFFICER,
KVAT CIRCLE-III, KALAMASSERY-683 104.**
- 2. COMMERCIAL TAX OFFICER,
WALAYAR, PALAKKAD-678 014.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE REGISTRATION CERTIFICATE / KVAT.**
- EXHIBIT P2: TRUE COPY OF THE CENTRAL EXCISE NOTIFICATION ACI/FM/51/14-15
DATED 01.07.2014.**
- EXHIBIT P3: TRUE COPIES OF THE PURCHASE BILLS.**
- EXHIBIT P4: TRUE COPY OF THE JOB WORK ISSUE BILL DATED 21.07.2014.**
- EXHIBIT P5: TRUE COPY OF THE DETENTION NOTICE ISSUED BY
THE 2ND RESPONDENT.**
- EXHIBIT P6: TRUE COPY OF THE C REPLY LETTER GIVEN BY THE PETITIONER.**
- EXHIBIT P7: TRUE COPY OF THE MONTHLY RETURNS.**
- EXHIBIT P8: TRUE COPY OF THE GOODS TRANSPORTED ON 21.07.2014 AND
THE PART CONSIGNMENT DETAILS.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 4325 of 2015 ()
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Dated this the 11th day of February, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P5 detention notice whereby a consignment of automobile seat covers, that was being transported from Delhi to Thrissur at the instance of the petitioner, was detained at Walayar check-post on 28.08.2014. 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.Girija Vallabhavan, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

2. 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.P5 detention notice, it is seen that, the objection of the respondents is that the transportation of the goods was not accompanied by any of the documents, that were prescribed under the KVAT Act. The only documents that accompanied the transportation was a job work issue bill, which indicated that raw materials were being transported from the vendors premises in Delhi to the job work premises also in Delhi. In other words there were no documents that showed that the goods under transportation

were seat covers and that they were sent from Delhi to Thrissur. On inspection it was found that the goods were seat covers and not 'foam rolls' as declared. Under those circumstances, the suspicion on the part of the respondents cannot be said to be unjustified. I take note, however, of the fact the petitioner is a registered dealer in the State and considerable time has elapsed since the detention of the goods at the check post and direct the 2nd respondent to release the goods and the vehicle, subject to the condition that the petitioner pays 25% of the amount demanded as security deposit in Ext.P5 notice and executing a simple bond without sureties for the balance amount therein before the 2nd respondent.

(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 2nd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/11/02/