

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. 4378 of 2015 (V)

PETITIONER(S):

**ANCHOR ELECTRICALS PRIVATE LIMITED,
DOOR NO.35/1085D, 1ST FLOOR, K.P.VARKEY AND
MEDATHILPARAMBIL COMPLEX, PALARIVATTOM,
PIN - 682 025. REPRESENTED BY ITS POWER OF ATTORNEY
HOLDER K.SANTHOSH KUMAR, KARAL HOUSE, KOOTHUPARAMBA.P.O.,
KANNUR.**

BY ADV. SRI.M.K.SUBHAKARAN

RESPONDENT(S):

**1.THE INTELLIGENCE INSPECTOR,
SQUAD NO.II, DEPARTMENT OF COMMERCIAL TAXES,
PERUMANOOR, KOCHI - 682 015.**

**2.THE ASSISTANT COMMISSIONER (ASSESSMENT),
SPECIAL CIRCLE-III, DEPARTMENT OF COMMERCIAL TAXES,
PERUMANOOR, KOCHI-682 015.**

**3.THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REGISTRATION CERTIFICATE.

EXT.P2: COPY OF THE INTERSTATE STOCK TRANSFER INVOICE.

EXT.P3: COPY OF THE FORM NO.8FA.

EXT.P4: COPY OF THE AIR WAY BILL NO.625322972 ON 29.1.2015.

EXT.P5: COPY OF THE NOTICE IN FORM 17A.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.4378 OF 2015 (V)

Dated this the 11th day of February, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P5 notice issued to him, detaining a consignment comprising of electrical goods that was being transported from Uttarakhand to Kalamassery at the instance of the petitioner, at the premises of the Courier company. 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. I have heard Sri.M.K.Subhakaran, the learned counsel appearing for the petitioner and also Smt.Sobha Annamma Eappen, the learned Government Pleader appearing 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.P5 detention notice, it is seen that the objection of the respondents is essentially

with regard to the goods not having been accompanied with Form 8FA as provided under Section 46(3)(e) of the KVAT Act. It is the case of the petitioner that Form 8FA declaration was generated as early as on 28.1.2015 and it was therefore available in the KVATIS system and could have been easily verified by the respondents.

(ii) Taking note of the fact, however, that the petitioner is a registered dealer within the State, and considering the fact that there was an electronic Form 8FA declaration and a valid invoice that accompanied the transportation of the goods, I direct the 1st respondent to release the consignment of goods subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P5 notice, before the said respondent.

(iii) 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.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp