

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. 4398 of 2015 (Y)

PETITIONER :

**JOSEPH SAKKARIA, AGED 50 YEARS,
AZHAKATHUMNNIL HOUSE, KALAMKULAM,
VADAKKANCHERRY, PALAKKAD DISTRICT**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON**

RESPONDENTS :

- 1. INTELLIGENCE INSPECTOR, SQUAD NO. VIII,
DEPARTMENT OF COMMERCIAL TAXES,
THEVARA, ERNAKULAM - 682015.**
- 2. OFFICER-IN-CHARGE,
COMMERCIAL TAXES CHECK POST, WALAYAR,
PALAKKAD DISTRICT - 678624.**
- 3. THE COMMISSIONER OF COMMERCIAL TAXES,
DEPARTMENT OF COMMERCIAL TAXES, TAX TOWERS,
KILLIPPALAM, KARAMANA P.O., THIRUVANANTHAPURAM-695001**

BY SENIOR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPPEN

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

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF BUILDING PERMIT OF THE KIZHAKKANCHERRY GRAMA PANCHAYATH.
- P2: COPY OF CERTIFICATE ISSUED BY THE VILLAGE OFFICER, VADAKKANCHERRY.
- P3: COPY OF INVOICE NO. 202 OF SHRI HARI GRANITE & TILES KARNATAKA.
- P4: COPY OF CERTIFICATE OF OWNERSHIP IN FORM NO. 16.
- P5: COPY OF E-DECLARATION IN FORM NO. 8F OF THE PETITIONER.
- P6: COPY OF NOTICE IN FORM NO. 17A ISSUED BY THE R1.
- P7: COPY OF CIRCULAR NO. 3/15 ISSUED BY THE R3.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 4398 of 2015 (Y)

.....
Dated this the 11th day of February, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P6 detention notice whereby a consignment of granite slabs, that was being transported from Karnataka to Vadakkancherry at the instance of the petitioner, was detained by the check post authorities at Walayar. 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.Harisankar V.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 and the submissions made across the Bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P6, it is seen that, the objection of the respondents is essentially with regard to non-filing of the required declaration in the electronic format. It is not in dispute that the manual documents such as Form-16 and other declarations were present along with the goods that were under transportation. The respondents seek

to rely on Ext.P7 circular for the purposes of insisting on the electronic declarations. The petitioner is not a registered dealer and goods were being transported for his own use in connection with construction of a residential house. Under those circumstances, and taking note of the fact that, the manual declaration was available along with the goods, I direct the 1st respondent to release the goods and vehicle bearing registration No.KL-09V-3699; on the petitioner furnishing a simple bond without sureties for the security deposit amount demanded in Ext.P6 detention notice before the 1st 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 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/11/02/