

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C).No. 4781 of 2015 (W)

PETITIONER:

**K.NEERAJA KOHULU REDDY,
S/O.K SREERAMULU REDDY, PROPRIETOR, SIVA DURGA TRADERS
MAIN ROAD, KOTHAPALLI MITTA VILLAGE AND POST
S R PURAM, CHITTOOR, ANDRA PRADESH
TIN - 28645561668.**

BY ADV. SRI.C.K.SREEJITH

RESPONDENTS:

- 1. THE INTELLIGENCE INSPECTOR
INTELLIGENCE SQUAD NO IV
DEPARTMENT OF COMMERCIAL TAXES, GOVERNMENT OF KERALA
MALAPPURAM-676505.**
- 2. THE INTELLIGENCE OFFICER
INTELLIGENCE SQUAD NO IV
DEPARTMENT OF COMMERCIAL TAXES, GOVERNMENT OF KERALA
MALAPPURAM-676505.**
- 3. INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES CHECK POST, WALAYAR - 678624.**
- 4. THE COMMISSIONER OF COMMERCIAL TAXES,
VIKAS BHAVAN, TRIVANDRUM-695001.**
- 5. STATE OF KERALA
REP. BY SECRETARY TO GOVERNMENT, GOVT.SECRETARIAT
THIRUVANANTHAPURAM-695001.**

BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 4781 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1:- THE TRUE COPY OF THE TAX INVOICE DTD 8/2/2015 ISSUED BY THE
PETITIONER**

**P2:- THE TRUE COPY OF THE NOTICE DTD 8/2/2015 ISSUED TO M/S.ASWATHY
ENTERPRISES, THEVALAPURAM P O, KOLLAM DIST-8/2/2015**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.4781 of 2015
.....

Dated this the 18th day of February, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Ext.P2 detention notice issued to him detaining a consignment of polished granite slabs that was being transported from Andrapradesh to Kollam at the instance of the petitioner, at Walayar 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.

2. Heard Sri.C.K.Sreejith, the learned counsel for the petitioner and Sri.Sudheesh Kumar, the learned Government Pleader for the respondents.

3. On a perusal of Ext.P2 detention notice, it is seen that the objection of the respondents is with regard to the quantity of goods that was being transported. While the documents accompanying the goods showed the consignment as comprising of 3349 sq.feet, on actual measurement it was found to be 3849 sq.feet.

Accordingly, the respondents demanded security deposit in respect of the excess quantity of 500 sq.feet that was detected. Counsel for the petitioner would contend that there is a discrepancy in the measurement conducted by the respondents. Accordingly, taking note of the said contention, I dispose the writ petition with the following directions:

(i) There will be a direction to the 3rd respondent to measure the polished granite slabs covered by Ext.P2 detention notice, in the presence of the petitioner and, if necessary, by unloading the said goods at a place to be earmarked by the 1st respondent, at the cost of the petitioner, and preparing a measurement sheet showing the measurement of the granite slabs that were being transported.

(ii) After conducting the measurement as aforesaid, the 1st respondent shall permit the petitioner to clear the goods and the vehicle on his paying an amount of Rs.14,500/- demanded as security deposit, or a reduced amount that is warranted if there is any change in the measurement that is to the advantage of the petitioner.

(iii) The 1st respondent 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

mns/

