

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. 5137 of 2015 (N)

PETITIONER:

**SHV LPG INDIA (PVT.) LTD,
TUTICORIN NEW HARBOUR, TUTICORIN,
TAMIL NADU, PIN - 628 004,
REPRESENTED BY ITS EXECUTIVE OPERATION.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR**

RESPONDENT(S):

- 1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, AMARAVILA,
THIRUVANANTHAPURAM DISTRICT, PIN - 695 12.**
- 2. THE ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, SPECIAL CIRCLE,
PALAKKAD, PIN - 688 625.**

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:**

mbr/

WP(C).No. 5137 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : COPY OF REGISTRATION CERTIFICATE.

EXHIBIT P2 : COPY OF STOCK TRANSFER INVOICE DATED 9.2.2015.

EXHIBIT P3 : COPY OF JJ FORM DATED 9.2.2015.

EXHIBIT P4 : COPY OF DECLARATION IN FORM 8F DATED 10.2.15.

**EXHIBIT P5 : COPY OF NOTICE DATED 10.2.2015 ISSUED BY THE
1ST RESPONDENT.**

EXHIBIT P6 : COPY OF REPLY DATED 11.2.2015.

EXT.P6(A) : COPY OF CORRECTED FORM JJ.

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.5137 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.P5 detention notice issued to him, detaining a consignment of LPG in bulk that was being transported from Tuticorin to Kottayam at the instance of the petitioner. 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.S.Anil Kumar, the learned counsel for the petitioner and Sri.Sudheesh Kumar, 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.P5 detention notice, it is seen that the objection of the respondents is essentially with regard to the documents that accompanied the transportation of the goods. While the stock transfer invoice indicated that the transportation

was from Tuticorin to Kottayam and this fact was also disclosed in the Form 8F declaration that was filed by the petitioner, in the delivery note that accompanied the goods, the consignment was shown as transported from Tuticorin to Bangalore. Under the said circumstances, the detention by the respondents cannot be said to be unjustified.

(ii) I take note, however, of the fact that the petitioner is a registered dealer in the State and direct the 1st respondent to release the goods and vehicle to the petitioner on the petitioner paying 25% of the security deposit amount demanded in Ext.P5 notice and furnishing a simple bond without sureties for the balance amount demanded therein before the 1st respondent.

(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

