

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. 5145 of 2015 (P)

PETITIONER(S):

**M/S. BAJAJ ELECTRICALS LTD.,
CRL HOUSE, 42/1107, TATA OIL MILLS ROAD,
COCHIN-682 018, REPRESENTED BY ITS MANAGER
MR.PRAKASH.**

BY ADV. SMT.KLATHA.

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. ASSISTANT COMMISSIONER,
SPECIAL CIRCLE-I, COMMERCIAL TAXES,
ERNAKULAM-682 019.**
- 3. THE INTELLIGENCE INSPECTOR,
SQUAD NO.II, COMMERCIAL TAXES,
IDUKKY, THODUPUZHA-686 010.**
- 4. THE SUB INSPECTOR OF POLICE,
PUTHAYANKAVALA POLICE STATION,
THODUPUZHA-686 010.**

BY GOVT. 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:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1A COPY OF THE SALES INVOICE NO.25425414 DATED 11/02/2015
ISSUED BY THE PETITIONER TO UNITED SALES AND
DISTRIBUTERS, KATTAPPANA.
- EXT.P1B COPY OF THE SALES INVOICE NO.25425415 DATED 11/02/2015
ISSUED BY THE PETITIONER TO UNITED SALES AND
DISTRIBUTERS, KATTAPPANA.
- EXT.P2 COPY OF THE DETENTION NOTICE OR NO.2676/14-15
DATED 13/02/2015 ISSUED BY THE THIRD RESPONDENT
U/S.47(2) OF THE KVAT ACT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.5145 of 2015
.....

Dated this the 18th day of February, 2015

J U D G M E N T

The petitioner, who is a registered under the Kerala Value Added Tax Act is aggrieved by Ext.P2 detention notice issued to him detaining a consignment comprising of Iron boxes and Mixer Grinders that was being transported from Ernakulam to Kattappana 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 Smt.Latha.K., 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.P2 notice, it is seen that the objection of the respondents is with regard to the transportation being not accompanied by any document that is prescribed under Section 46 (3) of the Kerala Value Added Tax Act. In that view of the matter,

the detention by the respondents cannot be said to be unjustified.

(ii) I take note of the fact that the petitioner is a registered dealer, and the contention of counsel for the petitioner that the supporting documents were made available before the respondents immediately after the detention, and direct the 3rd respondent to release the goods and the vehicle to the petitioner on the petitioner paying 25% of the security deposit amount demanded in Ext.P2 notice, and furnishing a simple bond without security for the balance amount demanded therein before the 3rd respondent.

(iii) The 3rd 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/

