

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 5512 of 2015 (L)

PETITIONER :

**NOUSHAD, SON OF KUTTI ALI, AGED 35 YEARS,
MANAGING PARTNER, GRAND TRADERS, MAIN ROAD,
KAVANAD, KOLLAM.**

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NUMBER III, COMMERCIAL TAXES,
KARUNGARAPALLY, KOLLAM, PIN-690 518**
- 2. THE ASSISTANT COMMISSIONER (ASSESSMENT)
COMMERCIAL TAX OFFICE, SPECIAL CIRCLE,
KOLLAM, PIN-691 003**

R1 & R2 BY GOVERNMENT PLEADER SRI.BOBBOY JOHN PULICKAPARAMBIL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).NO.5512/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE INVOICE/DELIVERY CHALLAN RELATING TO THE
CONSIGNMENT.**
- P2 COPY OF THE CONSIGNMENT DECLARATION IN FORM NUMBER 8F**
- P3 COPY OF THE NOTICE DATED FEBRUARY 19, 2015 ISSUED UNDER SECTION
47 (2) OF THE KVAT ACT BY THE FIRST RESPONDENT.**
- P4 COPY OF THE REPLY SUBMITTED BY THE PETITIONER IN RESPONSE TO
EXHIBIT P3**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5512 OF 2015

Dated this the 20th 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.P3 notice issued to him detaining a consignment of steel tubes that was being transported at the instance of the petitioner at Edappallycottah. 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.Jacob Sebastian, the learned counsel for the petitioner and Sri.Boby John Pulikkaparambil, 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.P3 notice, it is seen that the objection of the respondents is that the goods were consigned to Kavanad in Kollam but the vehicle was intercepted at Edappallycottah 10 KM

away from the destination. It is for this reason that the respondent suspected a possible evasion of tax.

(ii) I take note of the fact, however, that the transportation of the goods was covered by a valid invoice and the petitioner is a registered dealer in the State. I therefore direct the 1st respondent to release the goods and the vehicle to the petitioner on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P3, 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

mns

