

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 5628 of 2015 (C)

PETITIONER :

**M/S. BHAGAVATHY TRADERS P LTD.
SRI PADAM, 4/500 D.P.V., SREEDHARAN ROAD,
KUMBALAM POST, ERNAKULAM
PIN – 682 506
REPRESENTED BY IT'S EXECUTIVE DIRECTOR MR.B.RAVINDRANATH.**

BY ADV. SMT.K.LATHA

RESPONDENT(S) :

- 1. THE STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY
SECRETARIATE THIRUVANANTHAPURAM-695 001.**
- 2. ASSISTANT COMMISSIONER (ASSESSMENT)
SPECIAL CIRCLE, MATTANCHERRY-682 506.**
- 3. THE COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHECK POST, WALAYAR-678 105.**

R1 TO R3 BY GOVT. PLEADER SRI. SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 5628 of 2015 (C)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1 - THE TRUE COPY OF THE TAX INVOICE NO.SI 0747/14-15 DATED 29TH DECEMBER 2014 AND TRANSACTION SLIP DATED 30-12-2014.**
- EXT.P2 - THE TRUE COPY OF THE DETENTION NOTICE NO.4140/10A/14-15 DATED 6-1-2015 ISSUED BY THE THIRD RESPONDENT U/S.47(2) OF THE KVAT ACT TO THE PETITIONER.**
- EXT.P3 - THE TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF THE PETITIONER DATED 24-05-2007 ISSUED BY THE SECOND RESPONDENT.**
- EXT.P4 - THE TRUE COPY OF THE REGISTRATION RENEWAL COUNTER FOIL DATED 24-4-2014**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.5628 of 2015 (C)

.....
Dated this the 4th day of March, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P2 detention notice whereby a consignment of LPG stove, that was being transported 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 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) A perusal of Ext.P2 detention notice would indicate that the objection of the respondents is essentially that the registration certificate of the consignee was shown to be cancelled in the KVATIS software. The name of the consignee was Sri Bhagavathy Traders, in whose favour the invoice was also drawn up. It is pointed out by the

learned counsel for the petitioner that, Sri Bhagavathy Traders is the erstwhile firm that was in operation and the registration certificate of the said firm was cancelled in the year 2014, and a new registration was taken in the name of a private limited company - Sri.Bhagavathy Traders Pvt. Ltd., which was incorporated by the erstwhile partners of the firm. The learned counsel for the petitioner has produced a receipt for the payment of registration fees, which shows that, the remittance of the required fee was made as early as in April, 2014 and the registration was renewed in the name of the private limited company for the year 2014 - 2015. I also note that, in the transaction slip that was generated electronically, the name of the consignee was shown as Sri.Bhagavathy Traders Pvt. Ltd., with the correct TIN number. Under the said circumstances, I direct the 3rd respondent to release the goods and vehicle on condition that the petitioner furnishes a simple bond without sureties for the security deposit amount demanded in Ext.P2 detention notice.

(ii) The petitioner shall also file an undertaking before the 3rd respondent that the goods covered under the invoice and Ext.P2 detention notice will be duly accounted in their accounts and that he will produce a statement before the said authority with proof of the document evidencing the said fact.

(iii) 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.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 3rd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/04/03/