

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).NO. 5724 OF 2015 (M)

PETITIONER(S) :

M/S.CURATECH, 1ST FLOOR,
KKH BUILDING, POTTAMMAL, MAVOOR ROAD,
CALICUT 673016
REPRESENTED BY THEIR MANAGING PARTNER MR.ABDUL WAHAB

BY ADV. SMT.K.LATHA

RESPONDENT(S) :

1. THE STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM 695 001
2. THE COMMERCIAL TAX OFFICER, 3RD CIRCLE, CALICUT 673016
3. THE INTELLIGENCE INSPECTOR, COMMERCIAL TAXES, CAMP AT
ELOOR, 682034.

BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: THE TRUE COPY OF THE IMPORT LICENSE DATED 31.03.2014 ISSUED TO THE PETITIONER BY THE ASST.DIRECTOR GENERAL OF FOREIGN TRADE

EXT.P2: THE TRUE COPY OF THE CONTRACT NO.XY-2014-502 DATED 27TH DECEMBER 2014 ISSUED BY M/S JIANGXI NINYAG CERAMICS CO.LTD. CHINA TO THE PETITIONER

EXT.P3: THE TRUE COPY OF TWO SEPARATE PROFORMA INVOICES NO.XY-2014-502 DATED 1ST DECEMBER 2014 ISSUED BY M/S JIANGXI NINYAG CERAMICS CO.LTD. CHINA TO THE PETITIONER

EXT.P4:THE TRUE COPY OF THE FORM 8F A NO.321108/8F/14114/2014 AND FORM 8F A NO. 321108/8FA/14118/2014 BOTH DATED 19.02.2015

EXT.P5: THE TRUE COPY OF THE DETENTION NOTICE 752/14-15 DT.19.02.2015 ISSUED BY THE THIRD RESPONDENT U/S 47(2) OF THE KVAT ACT TO THE PETITIONER DEMANDING SECURITY DEPOSIT OF RS.99,900/-

EXT.P6: THE TRUE COPY OF THE WRITTEN STATEMENT OF OBJECTION FILED BY THE PETITIONER AGAINST THE P5 DETENTION NOTICE DATED 20TH DAY OF FEBRUARY 2015 /COPY OF ADVERTISEMENT OF SIMILAR ROOF TILES

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.5724 of 2015

.....
Dated this the 23th 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 ExtP5 detention notice issued to him detaining a consignment of ceramic roofing tiles that was being transported from China to Eloor at his instance. 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.K.KLatha, the learned counsel for the petitioner and Sri.Sudgeesh 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 notice it is seen that the objection of the respondents is that the value declared by the petitioner in the 8FA declaration is substantially lower than the value of the consignment as declared in the bill of entry for the purposes of

Customs Duty payment.

(ii) I take note of the fact, however, that the petitioner is a registered dealer in the State and that the value shown in the 8FA declaration was one that did not take into account the components that were relevant for the purposes of declaration of value for the purposes of Customs Act. I therefore direct the respondents to release the goods and the vehicle on the petitioner paying Rs.25,000/- towards the security deposit demanded in Ext.P5 notice and executing a simple bond without surety for the remaining amount 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

