

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 5987 of 2015 (W)

PETITIONER(S):

**M/S.SOMA ENTERPRISES LIMITED,
REPRESENTED BY ASSISTANT MANAGER (ACCOUNTS)
B.SURESH, KOCHI METRO RAIL PROJECT (KC-04)
MYLAADI CHAMBER, 1ST FLOOR, DOOR NO 44/1095-C 6,
POTTAKUZHAY, L F C CROSS ROAD, KALOOR, KOCHI 17.**

**BY ADVS.SRI.R.RAMAKRISHNAN POTTY
SRI.P.M.GIRIJAVALLABHAN**

RESPONDENT(S):

**1. THE ASSISTANT COMMISSIONER,
WORKS CONTRACT & LUXURY TAX
DEPT. OF COMMERCIAL TAXES,
GOVT. OF KERALA, ERNAKULAM.**

**2.THE INTELLIGENCE INSPECTOR,
SQUAD NO.V, O/O. INSPECTING ASST. COMMISSIONER (INT.)
COMMERCIAL TAXES, ERNAKULAM 682 018.**

**3.THE STATE OF KERALA
REP. BY THE SECRETARY,
DEPARTMENT OF COMMERCIAL TAXES,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**

R BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR.S.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE COMMERCIAL TAX DEPARTMENT.

EXT.P2: COPY OF THE INVOICE DATED 4.2.2015.

EXT.P3: COPY OF THE TRANSACTION SLIP ISSUED DATED 5.2.2015.

EXT.P4: COPY OF THE DETENTION CUM DEMAND NOTICE ISSUED BY THE SECOND RESPONDENT.

EXT.P5: COPY OF THE REPLY SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 13.2.2015.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5987 OF 2015 (W)

Dated this the 25th day of February, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P4 notice issued to him, detaining a consignment of machinery, that was being transported from Pune to Cochin at the instance of the petitioner, at the premises of the Courier agency. 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. I have heard Sri.R.Ramakrishnan Potty, the learned counsel appearing for the petitioner and also Sri.Sudheesh Kumar, the learned Government Pleader appearing 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.P4 detention notice, it is seen that the objection of the respondents is essentially that the transportation was not declared in an online

Form 8FA as prescribed under Section 46(3)(e) of the KVAT Act. I note in this case, however, that the petitioner had uploaded the details in Form 8F declaration and this is borne out by Ext.P3 transaction slip that was generated online at the instance of the petitioner.

(ii) Taking note of the fact, that the petitioner is a registered dealer within the State, I direct the 2nd respondent to release the goods subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P4 notice, before the said respondent.

(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 respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp