

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. 5997 of 2015 (Y)

PETITIONER(S):

**C.J.SHUNSON, AGED 33 YEARS,
PROPRIETOR, FOUR STAR ASSOCIATES,
PERUMATTY GRAMA PANCHAYATH, KANNIMARI,
PALAKKAD- 678 534.**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON**

RESPONDENT(S):

**1. COMMERCIAL TAX OFFICER,
CHITTUR 678 101.**

**2.INTELLIGENCE INSPECTOR,
MOBILE SQUAD NO.II,
MAHE, OFFICE OF THE DEPUTY COMMISSIONER (INTELLIGENCE)
DEPARTMENT OF COMMERCIAL TAXES,
KOZHIKODE 673 310.**

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:**

W.P.(C).NO.5997/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF INVOICE NO.A15 OF THE PETITIONER.

EXT.P2: COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5997 OF 2015 (Y)

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.P2 notice issued to him, detaining a consignment of palm oil, at Mahe check post. 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.Harisankar V. Menon, 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.P2 detention notice, it is seen that the transportation was not accompanied by the documents that were required under the KVAT Act,

and further the goods have not been declared at any of the check posts. In that view of the matter, the detention on the part of the respondents cannot be said to be unjustified.

(ii) Taking note of the fact, however, that the petitioner is a registered dealer within the State, I direct the 2nd respondent to release the goods and the vehicle subject to the petitioner paying 25% of the security deposit amount demanded in Ext.P2 notice and furnishing a simple bond without sureties for the balance amount demanded in Ext.P2 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