

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.6042 of 2015 (E)

PETITIONER:

**M/S.NCC LTD.,SHERWALI,DOOR NO.C.C/44/1725A,
KALOOR,KOCHI-682017 REPRESENTED BY IT'S
ASSISTANT GENERAL MANAGER MR.SHEKAR.**

BY ADV. SMT.K.LATHA

RESPONDENTS:

- 1. THE STATE OF KERALA,REPRESENTED BY
CHIEF SECRETARY,SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. THE ASSISTANT COMMISSIONER (WORKS CONTRACT),
O/O THE DEPUTY COMMISSIONER (WORKS CONTRACT & LT)
COMMERCIAL TAXES, ERNAKULAM-682032.**
- 3. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
VAZHIKKADAVU-688108.**

BY GOVT. PLEADER SRI.SUDHEESH KUMAR.

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

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APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1A:THE TRUE COPY OF FORM 84 DECLARATION 2072049314/2014-15/575
DATED 19TH FEBRUARY,2015.**

**EXT.P1B:THE TRUE COPY OF FORM 84 DECLARATION 2072049314/2014-15/576
DATED 19TH FEBRUARY,2015.**

**EXT.P2A:THE TRUE COPY OF THE DETENTION NOTICE OR 1252/14-15
DATED 20.2.2015 ISSUED BY THE THIRD RESPONDENT U/S 47(2) OF
THE K VAT ACT TO THE PETITIONER.**

**EXT.P2B:THE TRUE COPY OF THE DETENTION NOTICE OR 1253/14-15
DATED 20.2.2015 ISSUED BY THE THIRD RESPONDENT U/S 47(2) OF
THE K VAT ACT TO THE PETITIONER 1.**

EXT.P3:THE TRUE COPY OF THE CERTIFICATE ISSUED BY THE SECOND RESPONDENT DATED 21ST DAY OF FEBRUARY,2015.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6042 OF 2015 (E)

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 Exts.P2(a) and P2(b) detention notices issued to him, detaining two consignments of electric meters, that were being transported at the instance of the petitioner, at the Commercial Tax check post, Vazhikadavu. 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 notices as a condition for release of the goods and vehicle.

2. I have heard Smt.Latha.K., 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 Exts.P2(a) and P2(b) notices, it is seen that the objection of the respondents is essentially that the items in question were not included in the registration certificate issued to the petitioner and therefore the petitioner was not authorised to deal in the said material. Counsel for the petitioner would rely on Ext.P3 certificate issued by the Deputy Commissioner, Commercial Taxes, Ernakulam which would show that the petitioner is authorised to deal in electrical materials also. The issue as to whether electrical material would take in electrical meter also, is one that has to be gone into by the adjudicating authority at the time of adjudication.

(ii) Taking into account the fact that the petitioner is a registered dealer in the State, I direct the 3rd respondent to release the goods and the vehicle subject to the petitioner paying 25% of the security deposit amount demanded in Exts.P2(a) and P2(b) notices and furnishing a simple bond without sureties for the balance amount demanded therein, before the 3rd 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE