

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. 6049 of 2015 (E)

PETITIONER(S) :

**M/S.OFFSHORE INFRASTRUCTURES LTD.,
SREEHARI, MPRA 12, EROOR WEST P.O, THRIPIUNITHURA,
REPRESENTED BY IT'S ACCOUNTS MANAGER MR.SREEJITH MEMON.**

BY ADV. SMT.K.LATHA

RESPONDENT(S) :

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, SECRETARIATE,
THIRUVANANTHAPURAM- 695 001.**
- 2. THE INTELLIGENCE INSPECTOR,
INTELLIGENCE SQUAD NO.VI,
O/O.INSPECTING ASSISTANT COMMISSIONER (INT),
COMMERCIAL TAXES, KOZHIKODE, CAMP AT WALAYAR- 628 105.**

BY GOVERNMENT 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:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1(A): THE TRUE COPY OF THE FORM 8F TOKEN NO.32072032585/2014-15/445 DATED 20TH FEBRUARY 2015.**
- EXT.P1(B): THE TRUE COPY OF THE DELIVERY NOTE IN FORM 15 DATED 20TH FEBRUARY 2015 ISSUED BY THE PETITIONER.**
- EXT.P2: THE TRUE COPY OF THE DETENTION NOTICE NO.VC/911/14-15 DATED 19.02.2015 ISSUED BY THE SECOND RESPONDENT U/S 47(2) OF THE KVAT ACT TO THE PETITIONER.**
- EXT.P3: THE TRUE COPY OF THE FORM OF CERTIFICATE OF REGISTRATION NO.TN 06 M 9805 IN FORM NO.23 BEARING A 3084669 OF THE EARTH MOVING EQUIPMENT CRANE REGISTERED IN THE NAME OF MR.MARIAPPAN.**
- EXT.P4: THE TRUE COPY OF THE PURCHASE AGREEMENT DATED 30.12.2014 ISSUED BY THE PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6049 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 Ext.P2 detention notice issued to him detaining a crane that was being transported from Chennai to Tripunitura, at the instance of the petitioner. Ext.P2 is the detention notice. 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 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 Ext.P2 notice, it is seen that the

objection of the respondents is essentially with regard to the documents that accompanied the transportation. While on the one hand, there was Ext.P1(b) delivery note which indicated that the excavator was being transported from Chennai to Tripunitura for the purpose of job work and did not involve any sale, Ext.P1 declaration in Form 8F referred to an invoice dated 18.02.2015 which is essentially an invoice evidencing the sale of the crane to the consignor in Chennai. It is apparant, therefore that the said invoice was mentioned by mistake and at any rate, did not have any relevance to the transportation effected at the instance of the petitioner.

(ii) Taking into account the fact that the petitioner is a registered dealer in the State, I direct the 2nd respondent to release the goods and the vehicle to the petitioner on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P2 detention notice.

(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**