

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 6114 of 2015 (L)

PETITIONER :

**SREEJA KANNAN, AGED 41 YEARS,
PROPRIETRESS, CRYSTAL DISPLAY SYSTEMS, C8
ROOM NO 53, 1ST FLOOR, DD CORNER STONE,
KADAVANTHRA P. O., KOCHI-682020**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR**

RESPONDENTS :

- 1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, BANGRA MANJESWAR,
KASARAGOD DIST-676121**
- 2. COMMERCIAL TAX OFFICER,
4TH CIRCLE, CLAS TOWER, OLD RAILWAY STATION ROAD,
KOCHI-682018**
- 3. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, TAX TOWERS, KARAMANA,
THIRUVANANTHAPURAM-PIN-695002**

R1 TO R3 BY GOVERNMENT PLEADER SRI. SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

P1:- COPY OF REGISTRATION CERTIFICATE

P2:- COPY OF MONTHLY RETURN FOR DECEMBER 2014

P2(A):- COPY MONTHLY RETURN FOR JANUARY 2015.

P3:- COPY OF INVOICE DTD 20/1/2015.

P4:- COPY OF NOTICE DTD 23/1/2015 ISSUED BY THE 1ST RESPONDENT.

**P5:- COPY OF LETTER DTD 29/1/2015 OF M/S.ALTON MARKETING MUMBAI
ADDRESSED TO THE 1ST RESPONDENT.**

**P6:- COPY OF PRINTOUT FROM THE WEBSITE OF THE COMMERCIAL TAXES
DEPARTMENT.**

P7:- COPY OF REPLY DTD 21-2-2015 FILED BY THE PETITIONER

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.6114 of 2015
.....

Dated this the 2nd day of March, 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 Ext.P4 detention notice issued to him detaining a consignment of stationery goods, that was being transported at the instance of the petitioner, at the Manjeshwar check post.

2. Heard Sri.S.Anil Kumar, the learned counsel for the petitioner and Sri.Sudheesh Kemar, the learned Government Pleader for the respondent.

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, it is seen that the reason for detention is that there was an alert issued in respect of the dealer whose TIN number was shown in the invoice, against the name of the petitioner consignee. The respondents, therefore, suspected that the petitioner was a person who had defaulted in the filing of returns and payment of tax under the Act. The learned Government Pleader on instructions would now submit that the TIN number shown against the consignee was

wrong and it pertains to another dealer who was based in Thiruvananthapuram. It is not in dispute that, in fact, the consignment in the instant case was consigned to the petitioner whose TIN number is different.

(ii) Under these circumstances, I direct the 1st respondent to release the goods and the vehicle to the petitioner on the petitioner furnishing an affidavit stating therein his TIN number, and on executing a simple bond without surety before the 1st respondent for the value of the goods indicated in Ext.P4 notice. The petitioner shall also produce a copy of the original registration certificate before the 1st respondent .

(iii) The 1st 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

