

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. 6567 of 2015 (U)

PETITIONER(S):

**K.M.NOUSHAD, AGED 42 YEARS,
PROPRIETOR, M/S.KANAMPURAM TIMBER AND VENEERS,
VATTAKKATTUPADY, IRINGOL,
PERUMBAVOOR.**

BY ADV. SRI.C.K.THANU PILLAI

RESPONDENT(S):

**1.THE INTELLIGENCE INSPECTOR,
SQUAD NO.1, COMMERCIAL TAXES,
CIVIL STATION, MALAPPURAM - 676 505.**

**2.THE COMMERCIAL TAX OFFICER,
FIRST CIRCLE, PERUMBAVOOR - 683 542.**

R BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR.S.

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

W.P.(C).NO.6567/2015.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF INVOICE NO.85 DATED 27.2.2015 ISSUED BY THE PETITIONER.

EXT.P2: COPY OF DELIVERY NOTE NO.321512/DN/42333/2014 DATED 27.2.2015 DOWNLOADED.

EXT.P3: COPY OF RECEIPT IN FORM 8F TOKEN NO.32151262105/2014-15 DATED 27.2.2015 ISSUED FOR PAYMENT OF ADVANCE TAX.

EXT.P4: COPY OF NOTICE NO.VC 2386/14-15 DATED 28.2.2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6567 OF 2015 (U)

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 KVAT Act, is aggrieved by Ext.P4 notice issued to him, detaining a consignment of plywood, that was being transported at his instance. 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.C.K.Thanu Pillai, 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 with regard to the quantity that was being transported. It is stated that on physical verification, it was found that the vehicle contained excess quantity of plywood sheets than what was

declared in the accompanying documents. It was therefore suspected that the petitioner would evade payment of tax. In view of the excess stock detected, the suspicion 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 1st respondent to release the goods subject to the petitioner paying 25% of the security deposit amount demanded in Ext.P4 and furnishing a simple bond without sureties for the balance amount 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