IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 6773 of 2015 (V)

PETITIONER :

ANEED C.A.,
PROPRIETOR
FIVE STAR ASSOCIATES
HOSPITAL ROAD,
CHOONDIKOTTA
MAHE.

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

RESPONDENT :

INTELLIGENCE INSPECTOR,
MOBILE SQUAD NO. II, MAHE
OFFICE OF THE DEPUTY COMMISSIONER (INTELLIGENCE)
DEPARTMENT OF COMMERCIAL TAXES
KOZHIKODE – 673 001.

BY GOVT. PLEADER SRI. SUDHEESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 6773 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF NOTICE IN FORM NO. 17A ISSUED BY THE RESPONDENT DATED 25-2-2015.

EXT.P2 COPY OF JUDGMENT IN WP(C) NO. 5916/15 OF THIS HONOURABLE COURT DATED 25-2-2015.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No.6773 of 2015 (V)

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Dated this the 4th day of March, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Ext.P1 notice issued to him detaining a consignment of palm oil that was being transported at the instance of the petitioner to Mahe, at New 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. Heard Sri.Harisankar V.Menon, the learned counsel for the petitioner and Sri.Sudheesh Kumar, the learned Government Pleader for the respondent.

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.P1, it is seen that the transportation of the goods was accompanied by the documents that were required in terms of the Kerala Value Added Tax Act. The objection of the respondent, however, is that consignments meant for the petitioner had been intercepted by the respondent many times in the past, and hence, there was a reasonable suspicion that even the transportation in the instant case was with a view to evade payment of tax. It is on that basis that the goods under transportation were detained along with the vehicle.

(ii) Considering the fact, however, that the petitioner is registered dealer in Mahe and in the instant case, even the respondent does not have a case that the goods were not accompanied by the documents that were contemplated under Section 46(3) of the Kerala Value Added Tax Act, I find that the detention of the goods and vehicle at the instance of the respondent is not justified. Accordingly, I direct the 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.P1 before the respondent. The petitioner shall also produce a copy of the registration certificate before the respondent at the time of clearance of the goods.

(iii) The 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/04/03/