

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 6893 of 2015 (I)

PETITIONER :

TRENDSUTRA CLIENT SERVICES PVT LTD.,
30/119 B3, VATTEKUNNAM 30, EDAPPALLY NORTH P.O.,
EDAPPALLY - 682 024,
ERNAKULAM HAVING ITS REGISTERED OFFICE AT 2ND FLOOR,
SAURABH BUILDING, MODI ESTATE, LBS MARG,
GHATOKPAR (W) - 400 086, MUMBAI, MAHARASHTRA,
REP. BY ITS DIRECTOR, ASHISH DASHARATH SHAH.

BY ADVS.SRI.SEBASTIAN PAUL
SRI.RON BASTIAN
SMT.SABEENA P.ISMAIL
SRI.BEN TOM
SRI.V.S.ANU MON

RESPONDENTS:

1. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, WALAYAR,
PALAKKAD - 678 624.
2. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, TAXES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

***ADDL.R3 IMPEADED**

* Addl.R3. THE DIRECTOR,
PRAKRUTI PROJECTS PVT. LTD., 1,
UTKANTH SOCIETY,
B/H ALKAPURI CLUB, ALKAPURI, VADODARA,
GUJARAT - 390 007.

***ADDL.R3 IS IMPEADED AS PER ORDER DATED 01.04.2015 IN IA.NO. 4802/15.**

**R1 & R2 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN
ADDL.R3 BY ADV. SRI.DEEPAK MOHAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 6893 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE RETAIL INVOICES (11 NOS.)**
- EXT.P2: TRUE COPY OF THE DECLARATION IN FORM NO. 8F ISSUED UNDER
 RULE 66 (6) OF THE KVAT RULES.**
- EXT.P3: TRUE COPIES OF THE CERTIFICATE OF OWNERSHIP (11 NOS.) IN
 FORM NO. 16 ISSUED UNDER R.58 (18) OF THE KVAT RULES.**
- EXT.P4: TRUE COPY OF THE ID. PROOF AND ADDRESS PROOF OF THE
 CONSIGNEES.**
- EXT.P5: TRUE COPY OF THE NOTICE DATED 01/01/2015.**
- EXT.P6: TRUE COPY OF THE CIRCULAR NO. 7/08 DATED 15/02/2008.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 6893 of 2015 (J)

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Dated this the 10th day of April, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P5 detention notice whereby, a consignment of household articles, that was being transported by the petitioner, was detained by the respondents at the parcel office. 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.Sebastian Paul, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader 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.P5 detention notice, it is seen that, the objection of the respondents is essentially that the goods, which are stated to be for own use of consignee, although, supported by a Form-16 declaration, the said declaration was found to be bogus. The learned counsel for the petitioner would submit that, in respect of each of the items in the consignment, the petitioner had produced details, such as the name of the consignee, address proof and other identification

documents and hence the general statement made by the respondent cannot be said to be correct. Taking note of the fact that, the petitioner is registered as a transporter in terms of the provisions of the KVAT Act, I direct the 1st respondent to release the goods to the petitioner, subject to the condition that, the petitioner pays 50% of the amount demanded as security deposit in Ext.P5 detention notice, and executes a simple bond without sureties for the balance amount demanded therein, before the 2nd respondent.

(ii) 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 2nd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/10/04/