

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 6982 of 2015 (W)

PETITIONER :

**DEE DEE MARKETING,
V/86-A, LIGHT HOUSE ROAD, PUTHUVYPPU JN.,
PUTHUVYPPU-682 508, REPRESENTED BY REETHA SEBASTIAN,
PROPRIETRIX**

**BY ADVS.SRI.V.P.SABU
SRI.P.M.GIRIJAVALLABHAN**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAX DEPARTMENT, IIND CIRCLE,
MATTANCHERY, KOCHI-682 002**
- 2. THE INTELLIGENCE INSPECTOR, SQUAD NO.II,
COMMERCIAL TAXES, ALAPPUZHA-688 003**
- 3. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY,
DEPARTMENT OF COMMERCIAL TAXES, SECRETARIAT,
THIRUVANANTHAPURAM-695 001**

R1 TO R3 BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.6982/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE KVAT/CST REGISTRATION CERTIFICATE ISSUED BY THE FIRST RESPONDENT.**
- P2 COPY OF THE INVOICE NO.1280/14-15 DATED 24/02/2015 ISSUED BY THE SELLER.**
- P3 COPY OF THE FORM N.8F NO.32150646382/2014-15/144.**
- P4 COPY OF THE PURCHASE ORDER ISSUED BY MALAYALAMANORAMA, KOLLAM.**
- P5 COPY OF THE NOTICE NO.OR 716/2014-15 DATED 27/02/2015 ISSUED BY THE SECOND RESPONDENT.**
- P6 COPY OF THE APPLICATION TO ENDORSE THE ITEM FILED BEFORE THE 1ST RESPONDENT DATED 3/2/2014**
- P7 COPY OF THE SALE BILL NO.1556 DATED 27/2/2015 OF THE PETITIONER TO BE GIVEN TO THE CUSTOMER.**
- P8 COPY OF THE REPLY SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 28/2/2015.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.6982 of 2015

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Dated this the 5th 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.P5 detention notice issued to him detaining a consignment of insulation materials, that was being transported at the instance of the petitioner, at Harippad. 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.V.P.Sabu, the learned counsel for the petitioner and Sri.Sudheesh Kumar, 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) A perusal of Ext.P5 detention notice would indicate that the objection of the respondents is essentially with regard to the documents that accompanied the transportation

of the goods. It is stated that there was no valid document, as prescribed under the Kerala Value Added Tax Act, accompanying the transportation of the goods from Ernakulam to Kollam. The invoice evidencing the interstate purchase of the goods indicated that the petitioner had purchased the goods at concessional rate of tax by issuing C Forms. The detention notice, however, indicates that the CST registration certificate issued to the petitioner did not include the item in question, at the time of raising the invoice or at the time of the transportation of the goods. Under the said circumstances, the detention of the consignment by the respondents cannot be said to be unjustified.

(ii) I take note, however, of the fact that the petitioner is a registered dealer within the state and direct the 2nd respondent to release the goods and the vehicle to the petitioner on the petitioner paying 50% of the security deposit amount demanded in Ext.P5, and furnishing a simple bond without surety for the balance amount demanded therein, before the 2nd respondent.

(iii) The 2nd 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

mns

