

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 7250 of 2015 (E)

PETITIONER(S):

**PRECISION INTERIOR WORKS,
BLDG. NO.XV/323A, PULLUR, ANURULY ROAD,
IRINJALAKUDA, THRISSUR-680 683,
REPRESENTED BY ITS PROPRIETOR
SRI.SUDHEER P.S.**

BY ADV. SRI.K.J.ABRAHAM.

RESPONDENT(S):

- 1. THE COMMERCIAL TAX INSPECTOR,
DEPARTMENT OF COMMERCIAL TAXES,
CTCP WALAYAR-678 624.**
- 2. INSPECTING ASST. COMMISSIONER,
COMMERCIAL TAX CHECK POST,
WALAYAR-678 624.**

BY GOVERNMENT PLEADER SMT.SHOBANAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 COPY OF THE PURCHASE INVOICE DATED 23/06/2014.
- EXT.P2 COPY OF THE FORM 8F DECLARATION DATED 23/06/2014.
- EXT.P3 COPY OF THE E SUGHAM DECLARATION DATED 23/06/2014.
- EXT.P4 COPY OF THE DEMAND NOTICE DATED 04/03/2015 ISSUED BY
THE RESPONDENT UNDER S.47(2) OF THE KVAT ACT.
- EXT.P5 COPY OF THE DECLARATION REGARDING PURCHASE RETURN.
- EXT.P6 COPY OF THE DELIVERY NOTE DATED 04/03/2015.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.7250 of 2015 (E)

.....
Dated this the 6th day of March, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P4 detention notice whereby, a consignment of machinery and parts, that was being transported at the instance of the petitioner, was detained by the check post authorities at Walayar. 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.Abraham K.J., 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.P4 detention notice, it is seen that, the objection of the respondents is essentially that the goods under transportation were not accompanied by any of the documents prescribed under Section 46(3) of the KVAT Act. In that view of the matter, the detention on the part of the respondents cannot be said to be unjustified.

The learned counsel for the petitioner would submit that the necessary documents were subsequently made available to the respondents. I also take note of the fact that the petitioner is a registered dealer in the State, and direct the 1st respondent to release the goods and the vehicle, subject to the condition that the petitioner pays 25% of the amount demanded as security deposit in Ext.P4 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 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/06/03/