

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.7261 of 2015 (G)

PETITIONER:

**C.P.JOY,M/S.MATHA SAW MILL,
MAROTTICHODU,MATTOOR,
KALADY-683574.**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SMT.K.P.RANI**

RESPONDENTS:

- 1. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
MUTHANGA-673592.**
- 2. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES CHECK POST,
MUTHANGA-673592.**
- 3. THE ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
MATTANCHERY AT ALUVA-683101.**

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

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

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE REGISTRATION CERTIFICATE UNDER KERALA
VALUE ADDED TAX ACT TIN NO.32150814884C DATED 24.3.2008.

EXT.P2:TRUE COPY OF THE INVOICE NO.419 DATED 3.3.2015 ISSUED BY THE
PETITIONER TO THE CONSIGNEE.

EXT.P3:TRUE COPY OF THE FORM 8F DECLARATION NO.32150814884/2014-
15/124 DATED 3.3.2015 SUBMITTED BY THE PETITIONER.

EXT.P4:TRUE COPY OF THE DELIVERY NOTE NO.321502/DN/55705/2014
DATED 3.3.2015.

EXT.P4A:TRUE COPY OF THE FOREST PASS NO.172652 DATED 3.3.2015.

EXT.P5:TRUE COPY OF THE NOTICE NO.3386/2014-15 DATED 4.3.2015 ISSUED BY
THE 1ST RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 7261 of 2015 (G)

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

JUDGMENT

The petitioner is aggrieved by Ext.P5 detention notice whereby, a consignment of Teak wood logs, that was being transported at the instance of the petitioner, was detained by the check post authorities at Muthanga. 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.P.N.D.Namboothiri, 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, I find that the objection of the respondents is essentially with regard to the suspected under valuation of the goods. It is not in dispute that, the transportation was accompanied by an invoice as required under Section 47(3) of the KVAT Act and the necessary declarations. In that view of the matter, and

considering the fact that, the petitioner is a registered dealer in the State. I direct the 1st respondent to release the goods and vehicle to the petitioner, on his furnishing a simple bond without sureties for the security amount demanded in Ext.P5.

(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 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/06/03/