

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 7372 of 2015 (V)

PETITIONER :

**SHIJU P.A.,
MANAGING DIRECTOR,
REPRESENTING M/S. ANON EQUIPMENTS PRIVATE LIMITED,
KANNAMKULATH 669A, KAKKANAD-682 030**

**BY ADVS.SRI.C.A.SADASIVAN
SRI.JOY P JOSE
SRI.SOJAN MATHEW
SRI.K.N.KRISHNAN NAMBOOTHIRI
SRI.C.V.SASI
SRI.K.JAYAMOHANAN PILLAI
SRI.JOSEPH KURIEN**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY (TAXES),
KERALA, GOVT. SECRETARIATE,
THIRUVANANTHAPURAM,PIN-695 001**
- 2. COMMERCIAL TAX OFFICER, 2ND CIRCLE,
KALAMASSERY AT KAKKANAD,
ERNAKULAM,PIN-682 030**
- 3. INTELLIGENCE INSPECTOR, SQUAD NO.III,
COMMERCIAL TAXES, ALAPPUZHA-688 001**

R1 TO R3 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.7372/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REGISTRATION CERTIFICATE ISSUED BY 2ND DATED 05/01/2013.**
- P2 COPY OF THE INVOICE NO.1169 DATED 26/02/2015 OF M/S. CAPTIVE FENESTRATION, THEKKELLORE, AVINASI.**
- P3 COPY OF THE INVOICE NO.1170 DATED 26/02/2015 OF M/S. CAPTIVE FENESTRATION, THEKKELLORE, AVINASI**
- P4 COPY OF THE FORM 8 F NO.32071360173/14-15/16 DATED 27/02/2015.**
- P5 COPY OF THE FORM 8 F NO.32071360173/14-15/17 DATED 27/02/2015.**
- P6 COPY OF THE INVOICE NOS.171 TO 175 DATED 27/02/2015 ISSUED TO M/S. FAVOURITE CONSTRUCTION PVT. LTD., THIRUVANANTHAPURAM**
- P7 COPY OF THE INVOICE NOS.176 & 177 DATED 27/02/2015 ISSUED TO M/S. FAVOURITE CONSTRUCTION PVT. LTD, THIRUVANANTHAPURAM.**
- P8 COPY OF THE OR NOTICE NO.791/14-15/ DATED 27/02/2015 ISSUED BY 3RD RESPONDENT.**
- P9 COPY OF THE OR NOTICE NO.792/14-15/ DATED 27/02/2015 ISSUED BY 3RD RESPONDENT.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 7372 of 2015 (V)
.....

Dated this the 9th day of March, 2015

JUDGMENT

The petitioner is aggrieved by Exts.P8 and P9 detention notices whereby, a consignment of windows and doors, that was being transported from Ernakulam to Thiruvananthapuram, at the instance of the petitioner, was detained by the authorities at Alappuzha. 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.C.A.Sadasivan, 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 Exts.P8 and P9 detention notices, it is seen that, the objection of the respondents is that there was no invoice that accompanied the goods on its transportation from Ernakulam to Thiruvananthapuram. The learned counsel for the petitioner would submit that, as per the arrangements with the suppliers in Tamilnadu, the goods were directed to be sent to Thiruvananthapuram, after reaching Ernakulam and this fact was also indicated in the invoice raised

by the supplier on the petitioner. It is a fact, however, that the transportation of the goods from Ernakulam to Thiruvananthapuram was not covered by a valid invoice that was raised by the petitioner on his buyer and in that sense there was no valid document as contemplated under Section 46(3) of the KVAT Act that accompanied the transportation of the goods. In that view of the matter, the detention on the part of the respondents cannot be said to be unjustified. I take note of the fact that the petitioner is a registered dealer in the State, and direct the 3rd 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 Exts.P8 and P9 detention notices, and furnishing a simple bond without sureties, for the balance amount demanded therein before the 3rd 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 3rd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE