

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. 7438 of 2015 (D)

PETITIONER(S):

**D.KANNAN, PROPRIETOR,
SREE SELVA GANAPATHI MILK PRODUCTS,
KOTTAYIL ROAD, KUNNAMKULAM, THRISSUR DISTRICT-680503.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):

- 1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAXES CHECK POST, WALAYAR-678625.**
- 2. COMMERCIAL TAX OFFICER (DUTY),
COMMERCIAL TAXES CHECK POST, WALAYAR-678625.**
- 3. COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, KUNNAMKULAM-680503.**

BY 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:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE REGISTRATION CERTIFICATE DATED 14/8/2007 ISSUED TO THE PETITIONER UNDER THE KVAT AND CST ACTS BY THE R3**
- P2: COPY OF INVOICE NO.56 DATED 27/2/15 RAISED BY M/S.BANKEY LAL BADRI PRASAD, RAJASTHAN ON THE PETITIONER FOR THE SALE OF CHAKALA STONES (POOJA ARTICLES)**
- P3: COPY OF ONLINE DECLARATION IN FORM NO.8F DATED 5/3/15 SUBMITTED BEFORE R1 AT THE TIME OF DECLARING THE GOODS**
- P4: COPY OF NOTICE DATED 5/3/15 U/S.47(2) OF THE KVAT ACT ISSUED BY THE R1 THROUGH THE DRIVER OF THE TRANSPORT VEHICLE, IN DEMANDING SECURTY DEPOSIT**
- P5: COPY OF REPLY DATED 6/3/15 SUBMITTED BY THE PETITIONER BEFORE THE R2 PURSUANT TO EXT.P4 NOTICE.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /.

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.7438 of 2015

.....
Dated this the 9th 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.P4 detention notice issued to him detaining a consignment of chakala stone meant for pooja purposes, that was being transported at his instance. 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.Tomson T.Emmanuel, 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 with regard to the nature of the items that was transported. According to the respondents, the item is in the nature of a building stone and therefore not covered by the

registration certificate of the petitioner. Counsel for the petitioner has produced a sample of the item transported and contends that the item is basically a pooja article which is mentioned in the certificate of registration issued to the petitioner.

(ii) Taking note of the submission of counsel for the petitioner and the fact that there was no other discrepancy noticed in the transportation of goods, I direct the 1st respondent to release the goods and the vehicle to the petitioner on his furnishing a simple bond without surety for the security deposit amount demanded in Ext.P4 before the 1st respondent.

(iii) The 1st 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

