IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 7488 of 2015 (I)

PETITIONER(S):

BIJU P. GEORGE, M/S.TILE & TILES,
PALIATH BUILDINGS, NH 49, KOLENCHERRY,
ERNAKULAM DISTRICT.

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENT(S):
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1. **COMMERCIAL TAX OFFICER,**
   MUVATTUPUZHA - 686 669.

2. **INTELLIGENCE INSPECTOR,**
   INTELLIGENCE SQUAD NO.II,
   MATTANCHERRY II AT KARUKUTTY - 689 003.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 7488 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: COPY OF INVOICE ISSUED BY M/S.SURABHI SUPREME MARBLES & GRANITES (P) LTD., ANGAMALY.

EXT.P2: COPY OF INVOICE ISSUED BY M/S.TILE & TILES, KOLENCHERRY.

EXT.P3: COPY OF NOTICE IN FORM NO.17A ISSUED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).No.7488 of 2015

Dated this the 10th 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.P3 detention notice issued to him, detaining a consignment of vitrified tiles, that was being transported at his instance, at Angamally. 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.Harisankar V.Menon, 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.P3 detention notice, it is seen that the objection of the respondents is essentially with regard to the fact that, although, the transportation of the goods was covered by an invoice which, showed the goods as consigned from Kolencherry to Panampilly Nagar, the

vehicle was intercepted at Angamally which was not in the route between Kolencherry to Panampilly Nagar. Counsel for the petitioner would submit that based on a purchase order received from the party at Ernakulam, the petitioner had directed the consignment, that he had sourced from Angamally, to be transported directly to Ernakulam, and it was therefore that the goods originated from Angamally, where it was intercepted by the authority. In view of the fact that the transportation of the goods was covered only by an invoice, which showed the goods as having been consigned from Kolencherry to Ernakulam, the detention of the consignment at Angamally, by the respondents, cannot be said to be unjustified.

(ii) I take note of the fact that the petitioner is a registered dealer in the State and direct the 2nd respondent to release the goods and the vehicle on the petitioner paying 25% of the security deposit amount demanded in Ext.P5 notice, and furnishing a simple bond without surety for the balance amount 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