

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 7630 of 2015 (C)

PETITIONER(S):

**SL TRADERS,
KURATTIPARAMBIL BUILDING,
XVI/287-1, THUKALASSERY, THIRUVALLA - 689 101,
PATHANAMTHITTA DISTRICT,
REPRESENTED BY THE MANAGING PARTNER.**

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENT(S):

- 1. THE COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE INTELLIGENCE INSPECTOR,
SQUAD NO.1, COMMERCIAL TAXES,
MATTANCHERY AT ALUVA - 683 101.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 7630 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT. P1: TRUE COPY OF THE COMPLAINT DATED 13.11.2014 GIVEN TO THE
COMMERCIAL SALES TAX DIVISION.**

**EXT.P2: TRUE COPY OF THE NOTICE DTD.6.3.2015 ISSUED BY THE INTELLIGENCE
INSPECTOR, SQUAD NO.1, COMMERCIAL TAXES, MATTANCHERY AT ALUVA.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7630 OF 2015 (C)

Dated this the 11th day of March, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P2 notice issued to him, detaining a consignment of PVC foam boards, 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. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing 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.P2 detention notice, it is seen that the objection of the respondents is essentially that the transportation of the goods was not accompanied by the necessary Form 8FA declaration that was mandated in terms of the KVAT Act. Counsel

for the petitioner would submit that the Form 8FA declaration could not be submitted online because the online facility was blocked for the petitioner. Be that as it may, I find that the transportation in question was not accompanied by the valid documents and hence the detention cannot be said to be illegal.

(ii) Taking note of the fact, however, that the petitioner is a registered dealer within the State, I direct the 2nd respondent to release the goods and the vehicle subject to the petitioner paying 25% of the security deposit amount demanded in Ext.P2 notice and furnishing a simple bond without sureties for the balance amount demanded in Ext.P2 notice, before the said respondent.

(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 respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp