

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 7905 of 2015 (K)

PETITIONER(S):

**EXIDE INDUSTRIES LIMITED,
HAVING ITS REGISTERED OFFICE AT EXIDE HOUSE,
59 E, CHOWRINGEE ROAD, CALCUTTA-20,
AND HAVING A BRANCH OFFICE AT DEVI BUILDING,
DOOR NO.33/2469 G3,
1ST FLOOR, CHAKARAPARAMBU,
LABOUR COLONY ROAD, THAMMANAM,
COCHIN - 682 032, REPRESENTED BY ITS AUTHORIZED
SIGNATORY JOSHY JOSEPH**

**BY ADVS.SRI.RAJESH NAMBIAR
SRI.N.R.SAJ**

RESPONDENT(S):

**INTELLIGENCE INSPECTOR
OFFICE OF THE INSPECTING ASST. COMMISSIONER
(INTELLIGENCE), COMMERCIAL TAXES,
ALAPPUZHA. 688 500**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE VATCERTIFICATE.

EXT.P2: COPY OF THE INTERSTATE STOCK TRANSFER INVOICES.

EXT.P3: COPY OF THE FORM 8F DECLARATION.

EXT.P4: COPY OF THE NOTICE DATED 9.3.2015.

EXT.P5: COPY OF THE REPLY DATED 10.3.2015.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7905 OF 2015 (K)

Dated this the 12th 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.P4 notice issued to him, detaining a consignment of batteries, that was being transported at his instance. In the writ petition, the petitioner is aggrieved by the insistence of the respondent 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.P4 detention notice, it is seen that the objection of the respondent is essentially

with regard to the fact that the consignment that was transported as an interstate stock transfer was not accompanied by the delivery note prescribed, of either the consignor State or the consignee State. In that view of the matter, the detention of the consignment cannot be said to be unjustified.

(ii) Taking note of the fact, however, that the petitioner is a registered dealer within the State, I direct the respondent to release the goods subject to the petitioner paying 25% of the security deposit amount demanded in Ext.P4 and furnishing a simple bond without sureties for the balance amount demanded in Ext.P4 notice, before the respondent.

(iii) The 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 respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp