

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 8235 of 2015 (D)

PETITIONER(S):

**M/S.KERALA TRADERS,
HILLPRODUCE DEALER, BUILDING NO.4/121,
CHENGAL, KALADY P.O., REP. BY P.O. DEVASSYKKUTTY
MANAGING PARTNER.**

**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,
SMT.SETHULAKSHMI.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REP. BY SECRETARY (TAXES),
KERALA GOVT. SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.**
- 2. INTELLIGENCE INSPECTOR,
SQUAD NO.III, COMMERCIAL TAXES,
IDUKKY AT DEVIKULAM-685 613.**
- 3. COMMERCIAL TAX OFFICER,
COMMERCIAL TAX OFFICE, ANGAMALY-683 572.**

BY GOVT. PLEADER SMT.SHOBANAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT P1 : TRUE COPY OF THE MONTHLY RETURNS FILED FOR THE MONTH OF JANUARY 2015.
- EXT P2 : TRUE COPY OF THE PURCHASE ORDER NO.KT/13/2014-15 DATED 11-03-2015.
- EXT P3 : TRUE COPY OF THE PURCHASE BILLS FROM 141 TO 145.
- EXT P4 : TRUE COPY OF THE DEPARTMENTAL DELIVERY NOTE NO.DN/9376/2014 DATED 12-03-2015 AT 10 A.M.
- EXT P5 : TRUE COPY OF OR NOTICE NO.ISI/III/14-15 (OR 625/14-15) DATED 12-03-2015 ISSUED BY 2ND RESPONDENT
- EXT P6 : TRUE COPY OF THE DOCUMENTS OF PREVIOUS PURCHASE AND TRANSPORT DATED 10-03-2015 TO PROVE THAT NO EVASION WAS DETECTED IN SIMILAR TRANSPORT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.8235 OF 2015

Dated this the 19th 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.P5 detention notice issued to him detaining a consignment dried pepper, that was being transported at the instance of the petitioner. 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 for the petitioner and 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.P5 detention notice, it is seen that although the transportation of the goods was accompanied by a delivery note in Form-15 and there were

invoices in Form -8E, the details in the said invoices were not found to be genuine, in that there was no one found to be residing in the address shown of the seller mentioned in the invoice. It was therefore that the respondents suspected a possible evasion of tax. In view of the fact that, the details of the seller shown in the invoices produced by the petitioner are demonstrated to be wrong, the detention by the respondents 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 2nd respondent to release the goods and the vehicle to the petitioner, on the petitioner paying 25% of the security deposit demanded in Ext.P5 notice and furnishing a simple bond without sureties for the balance amount demanded in Ext.P5 notice, before the said 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/

