

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No.8302 of 2015 (K)

PETITIONER:

**M/S.AERO MARINE SERVICES,APEEJAY SURRENDRA HOUSE,
4B,4TH FLOOR,24,BARODA STREET,MUMBAI-400009,
REPRESENTED BY ITS PARTNER,RAMESH KAMDAR.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN**

RESPONDENT:

**THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECKPOST,
WALAYAR-678624.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

W.P(C) NO.8302/2015

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1:TRUE COPY OF THE LETTER ALONG WITH PURCHASE ORDER
DATED 11.12.2014.**

EXT.P2:TRUE COPY OF THE INSPECTION NOTE DATED 4.2.2015.

EXT.P3:TRUE COPY OF THE LETTER DATED 4.2.2015.

**EXT.P4:TRUE COPY OF THE DELIVERY CHALLAN NO.AMS/(B-352) 2015
DATED 6.2.2015.**

EXT.P5:TRUE COPY OF THE NOTICE NO.OR/4753/9/14-15 DATED 12.2.2015.

**EXT.P6:TRUE COPY OF THE REPLY FILED BY THE PETITIONER BEFORE THE
RESPONDENT DATED 23.2.2015.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.8302 of 2015

.....
Dated this the 17th day of March, 2015

JUDGMENT

The petitioner, is aggrieved by Ext.P5 notice issued to him, detaining a consignment comprising of quick release coupling and chain lashing, 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 for the petitioner and also the learned Government Pleader for the respondent.

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 notice, it is seen that the objection of the respondent is with regard to the documents that accompanied the transportation of the goods. It was noted that there was only a Form 8F declaration and a delivery chalan that accompanied the transportation. The petitioner, who is the consignor is not a registered dealer in Kerala.

The delivery chalan that was produced does not indicate that the goods were being transported to his own premises in Kerala. It is also not in the form prescribed, either under the Sales Tax Law of Maharashtra or of Kerala. In that view of the matter, the detention on the part of the respondent cannot be said to be unjustified.

ii. Taking note of the fact that the petitioner is not a registered dealer in Kerala, I direct the respondent to release the goods and the vehicle to the petitioner, on the petitioner furnishing a bank guarantee for the entire security deposit amount demanded in Ext.P5 notice.

(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 respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

