

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.8358 of 2015 (T)

PETITIONER:

**ISMAIL M.S,MOOLAMKUZHIYIL HOUSE,
EAST MARADY,MUVATTUPUZHA,ERNAKULAM DISTRICT.**

BY ADV. SRI.K.I.SAGEER

RESPONDENT:

**INTELLIGENCE OFFICER,SQUAD NO.II,
COMMERCIAL TAXES,MINI CIVIL STATION,
THODUPUZHA,IDUKKI,PIN-683001.**

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.8358/2015

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1:A TRUE COPY OF THE NOTICE ISSUED UNDER SEC.47(2) OF THE KVAT
ACT ISSUED BY THE RESPONDENT DATED 10.3.2015.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.8358 of 2015

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

JUDGMENT

The petitioner, is aggrieved by Exts.P1 notice issued to him, detaining a consignment of imported timber, that was being transported in the vehicle belonging to 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 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.P1 notice, it is seen that the objection of the respondent is with regard to the fact that the goods, which were notified goods, were not accompanied by the delivery note in Form-15 as prescribed under Section 46 of the Kerala Value Added Tax Act. Under the said circumstances, the detention by the respondent cannot be said to be unjustified.

(ii) Under such circumstances and insofar as the petitioner is not a registered dealer, I direct the respondent to release the goods and the vehicle to the petitioner, on the petitioner furnishing a bank guarantee for the security deposit amount demanded in Ext.P1 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 respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

