

**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. 8781 OF 2015 (W)**  
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**PETITIONER(S):**  
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**FOCUS LIGHTING AND FIXTURES PRIVATE LIMITED,  
A-RAWAL COMPLEX, ANJUR ROAD,  
NEAR SAPNA RESTAURANT,  
BHIWANDI, MAHARASHTRA-421 302  
REPRESENTED BY ITS AUTHORIZED SIGNATORY  
-MR.L.PADMANABHA CHARI**

**BY ADVS.SRI.V.V.ASOKAN (SR.)  
SRI.ARUN KUMAR.P**

**RESPONDENT(S):**  
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- 1. COMMERCIAL TAX INSPECTOR,  
COMMERCIAL TAX CHECK POST  
WALAYAR-678624**
- 2. INSPECTING ASSISTANT COMMISSIONER,  
DEPARTMENT OF COMMERCIAL TAXES,  
WALAYAR-678624**
- 3. PAAYAL JAIN BAFNA, CHACKOLAS WATERSCAPES 4A,  
THEVARA FERRY ROAD  
THEVARA, KOCHI -682 013**

**BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN**

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

WP(C).NO. 8781 OF 2015 (W)

**APPENDIX**

**PETITIONER'S EXHIBITS:**

EXT.P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER  
DATED 28.02.2011

EXT.P2 : TRUE COPY OF THE SALE INVOICE OF THE PETITIONER DATED 24.02.2015

EXT.2(A): TRUE COPY OF THE SALE INVOICE OF DEEPAK ELECTRIC CORPORATION  
DATED 03.02.2015

EXT.P3: TRUE COPY OF FORM-16 DATED 03.03.2015

EXT.P4: TRUE COPY OF THE DETENTION NOTICE GIVEN BY THE 1<sup>ST</sup> RESPONDENT  
UNDER SECTION 47(2) OF THE KVAT ACT DATED 07.03.2015

EXT.P5: TRUE COPY OF THE CIRCULAR NO.3/2015 ISSUED BY THE COMMISSIONER,  
COMMERCIAL TAXES, THIRUVANANTHAPURAM, DATED 14.01.2015

**RESPONDENTS' EXHIBITS: NIL**

//TRUE COPY//

P A TO JUDGE

**A.K.JAYASANKARAN NAMBIAR, J.**

.....  
W.P.(C).No.8781 of 2015

.....  
Dated this the 19<sup>th</sup> day of March, 2015

**JUDGMENT**

The petitioner, is aggrieved by Exts.P4 notice issued to him, detaining a consignment of electrical goods, 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.P4 detention notice it is seen that the objection of the respondents is with regard to the documents that accompanied the transportation of the goods. It is the case of the respondents that the documents that accompanied the goods did not satisfy the condition prescribed in Circular No.3/2015 of the Commissioner of Commercial Taxes and further, the consignment was in bulk quantity. Counsel for the petitioner would rely on Ext.P3

declaration in Form-16 which was obtained from the website which shows that the declaration was issued on 03.03.2015 well before the date of detention of the goods.

(ii) Under the circumstances, I direct the 1<sup>st</sup> respondent to release the goods and the vehicle to the petitioner on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P4 before the 1<sup>st</sup> respondent.

(iii) The 1<sup>st</sup> 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/

