IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9528 of 2015 (M)

PETITIONER(S):

D.J.AMUSEMENTS
REPRESENTED BY ITS MANAGING PARTNER,
C.K.DINESH KUMAR, CHATHAMKANDAM,
MANKARA P.O., PALAKKAD.

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

RESPONDENT(S):

THE INTELLIGENCE INSPECTOR
SQUAD NO.III, OFFICE OF THE INSPECTING
ASSISTANT COMMISSIONER (INTELLIGENCE),
DEPARTMENT OF COMMERCIAL TAXES,
KOZHIKODE - 673 006, CAMP AT COMMERCIAL TAX
CHECKPOST, WALAYAR, PALAKKAD.

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).NO.9528/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE INVOICE NO.TA801 DATED 28.2.2015.

EXT.P2: COPY OF THE CERTIFICATE OF OWNERSHIP DATED 21.3.2015.

EXT.P3: COPY OF THE NOTICE NO.VCR/III/864/14015 ISSUED BY THE RESPONDENT UNDER SECTION 47(2) OF THE KVAT ACT DATED 22.3.2015.

EXT.P4: COPY OF THE CERTIFICATE OF MANNARKAD PANCHAYATH DATED 18.3.2015 WITH ANNEXURES.

EXT.P5: COPY OF THE CERTIFICATE OF MANKARA GRAMA PANCHAYATH DATED 7.11.2014.

EXT.P6: COPY OF THE LETTER ISSUED BY THE SECRETARY, PALAKKAD MUNICIPALITY DATED 2.2.2015.

EXT.P7: COPY OF THE INCOME TAX RETURN FOR THE YEAR 2014-15 DATED 29.11.2014.

EXT.P8: COPY OF THE PICTURE OF 14 FEET TRAMPOLINE.

EXT.P9: COPY OF THE PICTURE OF WRANGLER BULL.

EXT.P10: COPY OF THE PICTURE BUNGEE TRAMPOLINE.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.9528 OF 2015 (M)

Dated this the 25th day of March, 2015

J U D G M E N T

The petitioner is aggrieved by Ext.P3 notice issued to him, detaining a consignment of entertainment equipments such as trampoline, wrangler bull and bungee trampoline, that were being transported at the instance of the petitioner. 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 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.P3 detention notice, it is seen that the objection of the respondent is essentially with regard to the fact that the goods, which were shown as consigned to the petitioner by the invoice that accompanied the transportation, was not accompanied by a completed Form 16 declaration signed by the petitioner. Under the said circumstances, the respondent suspected that the goods that were in bulk quantity were being transported for subsequent resale within the State. Counsel for the petitioner produced Ext.P1 invoice as well as Ext.P2 certificate of ownership in Form 16 which would show that the goods were consigned to the petitioner and were acquired by him for the purposes of conducting an exhibition within the State. He has also produced Exts.P4 and P5 certificates issued by the relevant authorities who regulate the conduct of exhibitions within the State. In that view of the matter, I feel that the goods and the vehicle can be released to the petitioner, who is an unregistered dealer, on the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P3 notice, before the respondent.

(ii) 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, untrammelled by the observations in this judgment.

(iii) 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