

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. 9529 of 2015 (M)

PETITIONER :

**M/S HAYA ASSOCIATES,
A PARTNERSHIP FIRM FORMED AND REGISTERED
UNDER THE INDIAN PARTNERSHIPACT, 1932,
HAVING ITS REGISTERED OFFIE AT 67/6970 AI,
BANERJI ROAD, ERNAKULAM - 682031.
REPRESENTED BY ITS MANAGING PARTNER
SRI. JIJO JOHN, AGED 30 YEARS**

**BY ADVS.SRI.ASWIN GOPAKUMAR
SRI.ANWIN GOPAKUMAR
SMT.KALA G.NAMBIAR
SRI.K.AMAL NATH NAIK
SMT.DEEPTI SUSAN GEORGE
SRI.ARJUN RADHAKRISHNAN NAIR
SMT.ANUSREE SURESH**

RESPONDENTS :

- 1. THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF TAXES, GOVERNMENT SECRETARIAT,
THIRUVANANDAPURAM - 695001.**
- 2. THE INTELLIGENCE INSEPCTOR, SQUAD NO. VIII,
DEPARTMENT OF COMMERCIAL TAXES,
OFFICE OF THE INSEPCTING ASSISTANT COMMISSIONER,
THEVARA, ERNAKULAM - 682015.**

R1 & R2 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:**

bp

WP(C).No. 9529 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF THE INVOICE DT 4/3/2015.

P2: COPY OF THE TRANSACTION SLIP DT 5/3/2015.

P3: COPY OF THE NOTICE DT 9/3/2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.9529 of 2015 (M)

.....
Dated this the 25th day of March, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P3 detention notice whereby, a consignment of medical equipments, that was being transported at the instance of the petitioner, was detained by the respondents. 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. Heard Sri.Aswin Gopakumar, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, 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.P3 detention notice, it is seen that, the objection on the part of the respondents is essentially with regard to the documents that accompanied the transportation. According to the respondents, although, the consignments were accompanied by valid invoices, there was no declaration in Form 8FA as mandated under Section 46(3) of the KVAT Act. In that view of the matter, the detention on the part of the respondents cannot be said to be unjustified. The learned

counsel for the petitioner would submit that, the petitioner is a registered dealer and in the instant case, he had caused a transaction slip to be generated in the KVATIS software, and it was on account of the omission of the courier agent in not generating an 8FA declaration, that the goods came to be detained. Taking note of the said submission, I direct the 2nd respondent to release the goods to the petitioner, subject to the condition that, the petitioner pays 25% of the amount demanded as security deposit in Ext.P3 detention notice, and executing a simple bond without sureties for the balance amount demanded therein, before the 2nd respondent.

(ii) The respondents 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 2nd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/25/03/

