

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No. 10040 of 2015 (D)

PETITIONER(S):

**ABDUL GADHAFI M.,
AGED 40 YEARS, PROPRIETOR,
MRA BAKERY, MAIN ROAD, NEW MAHE,
THALASSERY, PIN - 670 101.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR**

RESPONDENT(S):

**1.THE INTELLIGENCE INSPECTOR,
SQUAD NO.IV, COMMERCIAL TAXES,
MATTANCHERY AT ALUVE. PIN 683 101.**

**2.THE COMMERCIAL TAX OFFICER, 1ST CIRCLE,
THALASSERY, KANNUR DISTRICT PIN 670 101.**

**3.THE INTELLIGENCE OFFICER, SQUAD NO.IV,
COMMERCIAL TAXES, MATTANCHERRY AT ALUVA
PIN 683 101.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF REGISTRATION CERTIFICATE.

EXT.P2: COPY OF PURCHASE BILLS ACCOMPANIED WITH THE CONSIGNMENT DATED 18.3.2015.

EXT.P3: FORM 8F E-DECLARATION DATED 18.3.2015.

EXT.P4: COPY OF THE INVOICE DATED 13.3.2015.

EXT.P5: COPY OF THE PURCHASE ORDER ISSUED BY THE FOREIGN PARTY DTED 5.3.2015.

EXT.P6: COPY OF NOTICE ISUSED BY THE 1ST RESPONDENT DATED 20.3.2015.

EXT.P7: COPY OF THE REPLY FILED BY THE PETITIONER DATED 21.3.2015.

EXT.P8: COPY OF THE LETTER DATED 23.3.2015 ISSUED BY THE 1ST RESPONDENT.

EXT.P9: COPY OF THE REVISED NOTICE DATED 25.3.2015 ISSUED BY THE 1ST RESPONDENT.

EXT.P10: COPY OF THE MONTHLY RETURN FILED BEFORE THE 2ND RESPONDENT DATED 24.3.2015.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.10040 OF 2015 (D)

Dated this the 27th day of March, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Exts.P6 and P9 notices issued to him detaining a consignment of bakery equipments and kitchen utensils that were being transported at the instance of the petitioner, 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 notices 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 respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Exts.P6 and P9 notices, it is seen that the objection of the respondents is essentially that the goods that were invoiced to the petitioner in Mahe were found to be transported to Cochin. It is the contention of the petitioner that the goods were intended for export, based on a purchase order received by the petitioner, and hence, instead of transporting the goods from Coimbatore to Mahe, it was decided to send the goods to Cochin from where it was going to be exported. The fact remains, however, that for the transportation of goods from Palakkad to Kerala, there was no delivery note that accompanied the transportation of the goods. Under the said circumstances, the objection of the respondents cannot be stated to be unjustified.

(ii) Taking note of the fact, however, that the petitioner is a registered dealer within the State, I direct the 1st respondent to release the goods subject to the petitioner paying 25% of the security deposit amount demanded in Ext.P9 and furnishing a simple bond without sureties for the balance amount demanded in Ext.P9 notice, before the said respondent.

(iii) The 1st 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 1st respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp