IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 10406 of 2015 (A)

PETITIONER :

M/S. EAST COAST CONSTRUCTIONS AND INDUSTRIES LTD.,
TAC 26/433, CHAKRA TOWER, VANROSS JUNCTION,
THIRUVANANTHAPURAM,
REPRESENTED BY ITS AUTHORIZED SIGNATORY, EZHIL VIJAYAN.

BY ADVS.SRI.JOSEPH PRABAKAR
SRI.RAJESH NAIR
SRI.V.K.SHAMUSUDHEEN
SRI.BIJOY CHANDRAN

RESPONDENT :

COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECKPOST,
WALAYAR.

BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.10406/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE REGISTRATION CERTIFICATE

P2 COPY OF THE DELIVERY NOTE DATED 25/03/2015.

P3 COPY OF THE PRINT OUT OF RECEIPT FOR ADVANCE TAX E-PAYMENT.

P4 COPY OF THE NOTICE UNDER SECTION 47(2) DATED 26/03/2015 ISSUED BY THE RESPONDENT.

P5 COPY OF THE ORDER DATED 29/05/2014 IN WP(C).NO.13383/2014.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.10406 of 2015

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Dated this the 31st 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 Ext.P4 detention notice issued to him detaining a consignment of shuttering equipment of iron and steel that was being transported at the instance of 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 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) It is seen from a perusal of Ext.P4 notice that the objection of the respondent is that the dealer had defaulted in payment of arrears for the assessment years 2010-2011, 2011-2012 and 2012-2013. Counsel for the petitioner would

submit that the goods that were under transportation were duly covered by all the documents necessary under the Kerala Value Added Tax Act, and further, he had also remitted the entire tax due in respect of the consignment, as evidenced by Ext.P3, by way of advance tax. The learned Government Pleader would submit that the detention of the goods was in accordance with Circular No.5/13 of the Commissioner of Commercial Taxes, that was in turn issued pursuant to judgment of Division Bench of this Court in W.A.No.260 of 2012. I take note, however, of the fact that, as per the statutory provisions, a detention is permissible only in certain limited circumstances, and the reasons cited in Ext.P4 are not a ground for detention especially when the transportation of the goods is covered by the documents prescribed under the statute, and further, the entire tax in respect of the consignment has already been paid in advance.

(ii) Under the said circumstances, I direct the respondent to release the goods and the vehicle on the petitioner producing a copy of this judgment before the respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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