

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. 10468 of 2015 (G)

PETITIONER(S):

**K.PANEER SELVAM,
NO.1, PAKKAPOOSARI THOTTAM,
O.JEDAR PALAYAM P.O., RASIPURAM TALUK,
NAMAKKAL DISTRICT - 637 406, TAMIL NADU.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN
SMT.K.HYMAVATHY**

RESPONDENT(S):

**THE INTELLIGENCE INSPECTOR,
SQUAD NO.IV, COMMERCIAL TAXES,
KOLLAM AT PUNALLUR - 691 305.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

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

msv/

WP(C).No. 10468 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE INVOICE NO.3476 DTD.2.9.2008.

EXT.P2: TRUE COPY OF THE INSURANCE CERTIFICATE DTD.22.3.2014.

**EXT.P3: TRUE COPY OF THE NOTICE NO.OR.3295/14-15 DTD.26.3.2015 UNDER
SECTION 47(2) OF THE KVAT ACT ISSUED BY RESPONDENT.**

**EXT.P4: TRUE COPY OF THE PROCEEDINGS OF THE SENIOR GEOLOGIST,
PATHANAMTHITTA, DATED 25.3.2015.**

**EXT.P5: TRUE COPY OF THE LETTER GIVEN BY THE CONTRACTOR TO THE
PETITIONER DTD.21.3.2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 10468 of 2015

Dated this the 31st day of March, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P3 notice issued to him, detaining an old and used Hitachi Excavator, that was 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 a security deposit 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 as also the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P3 notice, it is seen that the objection of the respondent is with regard to the fact that the transportation of the excavator was not accompanied by a valid document under the KVAT Act, and it was suspected that the transportation was pursuant to a sale effected by the petitioner. Counsel for the petitioner would submit that the Excavator was owned by him and he was

transporting it for the purposes of doing a job work within the State of Kerala. It is also pointed out that the transportation was accompanied by a sale deed which evidenced the ownership of the vehicle in the petitioner. The fact remains however, that there was no valid document as contemplated under the KVAT Act, such as a certificate of ownership of the goods. The petitioner is also not a registered dealer within the State of Kerala. Under such circumstances, I direct the respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on his paying a sum of Rs.25,000/- towards security deposit and executing a simple bond without sureties for the balance amount demanded in Ext.P3 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.

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE