

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 10815 of 2015 (B)

PETITIONER :

**RAMESH K.,
S/O. KARUPPAIAH, AGED 43 YEARS
NO. 5/180, PERIYAMMAPALAYAM P.O.,
VEPPANTHATTAI TALUK,
PERAMBALLUR DISTRICT – 621 110.**

**BY ADVS.SRI.JAMES ABRAHAM (VILAYAKATTU)
SRI.P.BALAN (VYTTLA)**

RESPONDENT(S) :

- 1. THE INTELLIGENCE OFFICER
COMMERCIAL TAX, ARYANKAVU P.O.,
KOLLAM – 691 309.**
- 2. THE COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHECK POST
ARYANKAVU P.O., KOLLAM – 691 309.**
- 3. M/S. JSW CEMENT LTD.,
BILAKALAGUDUR, GADIVEMULA MANDAL
KURNOOL, ANDHRA PRADESH – 518 508.**

R1 & R2 BY GOVT. PLEADER SRI. BOBY JOHN PULICKAPARAMBIL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE CERTIFICATE OF REGISTRATION.

EXT.P2 COPY OF THE PERMIT FOR GOODS CARRIER.

**EXT.P3 COPY OF THE NOTICE DATED 23.3.2015 ISSUED BY THE 2ND
RESPONDENT.**

EXT.P4 COPY OF THE INVOICE DATED 21.3.2015.

**EXT.P5 COPY OF THE 2-WAY BILL ISSUED BY THE GOVERNMENT OF ANDHRA
PRADESH TO THE JSW CEMENT LTD.**

EXT.P6 COPY OF THE E-CONSIGNMENT DECLARATION IN FORM NO. 8F.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

=====

W.P.(C). No. 10815 of 2015

=====

Dated this the 1st day of April, 2015

JUDGMENT

The petitioner is the owner of a vehicle, that was transporting a consignment of Cement in bags, and which was detained by the respondent. Ext.P3 is the detention notice. In the writ petition, the petitioner is aggrieved by the refusal of the respondents to release the vehicle to the petitioner, without the owner of the goods first coming to claim the goods that were detained along with the 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 essentially that the transportation of the goods was not accompanied by valid documents as contemplated under Section 46 of the KVAT Act. Counsel for the petitioner would submit that the petitioner is only the owner of the vehicle and has absolutely nothing to do with the

goods and, therefore, he may be permitted to unload the goods, at his risk and cost, and a direction be issued to the respondents to release the vehicle to the petitioner.

(ii) On a consideration of the facts and circumstances of the case, and taking note of the fact that the petitioner is only the owner of the vehicle and seeks only a release of the vehicle, I direct the 2nd respondent to permit the petitioner to unload the goods, at his risk and cost, at a place to be earmarked by the 2nd respondent, and then release the vehicle to the petitioner, on the petitioner producing a copy of this judgment before the 2nd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE