

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No. 10852 of 2015 (F)

PETITIONER :

**M/S. AESERA JEWELS PVT. LTD.,
NO.144/74, ESKAY BUILDING, GREAMS ROAD
THOUSAND LIGHTS, CHENNAI - 600 006
REPRESENTED BY ITS DIRECTOR,
SRI.MOHAMED THAMBI KULAM, AGED 35 YEARS**

**BY ADVS.SRI.RAJESH NAMBIAR
SRI.N.R.SAJ**

RESPONDENTS :

- 1. INTELLIGENCE OFFICER, SQUAD NO.4,
RNAKULAM, DEPARTMENT OF COMMERCIAL TAXES,
EDAPALLY, KOCHI 682 024.**
- 2. DEPUTY COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM**

R1 & R2 BY SENIOR GOVERNMENT PLEADER SMT. SHOBA ANNAMMA EAPPE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE NOTICE U/S 67(1) OF THE KVAT ACT DATED 7/12/2014.
- P2: TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED 11/12/2014
IN WPC 33456/2014.
- P3: TRUE COPY OF THE PENALTY ORDER
- P4: TRUE COPY OF THE REVISION ORDER OF THE 2ND RESPONDENT
DATED 4/3/2015
- P5: TRUE COPY OF THE CHALLAN ALONG WITH THE COVERING LETTER
EVIDENCING PAYMENT OF PENALTY

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.10852 of 2015

Dated this the 16th day of June, 2015

JUDGMENT

The petitioner furnished a Bank guarantee pursuant to the proceedings initiated against him under Section 67(1) of the Kerala Value Added Tax Act. The proceedings culminated in favour of the petitioner. The petitioner seeks release of the Bank guarantee.

2. Learned Government Pleader submits that the Department is taking measures to challenge the orders passed by the second respondent before the competent authority.

3. Learned counsel for the petitioner points out that the order was passed by the second respondent on 24.3.2015 and thereafter, rectified order was passed on 4.5.2015 and in spite of the expiry of more than one month, no action has been taken to redress against the order passed under Section 67 (1) of the KVAT Act.

Considering the facts and circumstances, I am of the view, if no order or other proceedings restraining release of the Bank guarantee passed by any competent authority within one month from today, necessarily, the second respondent shall release the Bank guarantee furnished by the petitioner.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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