

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. 10919 of 2015 (L)

PETITIONER(S):

**M/S.V.MADHAVAN PILLAI & CO.
HINDUSTHAN PETROLEUM CORPORATION DEALER,
BEACH ROAD, PETTA, THIRUVANANTHAPURAM.**

BY ADV. SRI.P.RAHUL

RESPONDENT(S):

**1.INTELLIGENCE INSPECTOR
SQUAD NO.2, DEPARTMENT OF COMMERCIAL TAXES,
ALAPPUZHA AT CHENGANNUR, PIN - 689 121.**

**2.COMMERCIAL TAX OFFICER,
KVATCIRCLE III, DEPARTMENT OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM 695 001.**

**3.HINDUSTAN PETROLEUM CORPORATION LTD.,
P.B.NO.1601, ERNAKULAM NORTH P.O.,
ERNAKULAM - 682 018.**

R BY GOVERNMENT 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:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER.

EXT.P2: COPY OF THE REQUISITION LETTER ISSUED BY THE PETITIONER.

EXT.P3: COPY OF THE INVOICE ISSUED BY THE 3RD RESPONDENT.

EXT.P4: COPY OF THE DETENTION NOTICE GIVEN BY THE 1ST RESPONDENT.

EXT.P5: COPY OF LETTER ISSUED BY THE 3RD RESPONDENT TO THE 1ST RESPONDENT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.10919 OF 2015 (L)

Dated this the 1st day of April, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P4 notice issued to him, detaining a consignment of lubricant oil, 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 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 and the submissions made across the Bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P4 notice, it is seen that the objection of the respondents is that in the invoice that accompanied the goods, the TIN number of the

consignee was not mentioned. Counsel for the petitioner would place reliance on Ext.P5 letter of Hindustan Petroleum Corporation Ltd., the consignor of the goods, which would indicate that the non-mentioning of the consignee's TIN number was an inadvertent mistake committed at the time of issuing the invoice.

(ii) Taking note of the fact that the petitioner is a registered dealer within the State, and the transportation was covered by a document that is mentioned in the KVAT Act, I direct the 1st respondent to release the goods and the vehicle subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P4 notice, before the 1st 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, untrammelled by the observations in 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