

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 10931 of 2015 (N)

PETITIONER:

**AMRITHA VISWA VIDYAPEEDOM
(DEEMED UNIVERSITY), AMRITHAPURI CAMPUS,
KLAPPANA.P.O., KOLLAM, REPRESENTED BY ITS
PURCHASING AUTHORITY, BRHAMACHARI PRAKASH.**

**BY ADVS.SRI.R.KRISHNA RAJ
SRI.BIJITH S.KHAN**

RESPONDENT(S):

- 1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, WALAYAR.**
- 2. COMMERCIAL TAX INSPECTOR,
KARUNAGAPPALLY.**

BY GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 10931 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : COPY OF THE PURCHASE ORDER DATED 13.9.2014.

EXHIBIT P2 : COPY OF THE DECLARATION OF THE PETITIONER DATED 6.11.2014.

EXHIBIT P3 : COPY OF THE FORM 16 ISSUED BY THE PETITIONER DATED 6.11.2014.

EXHIBIT P4 : COPY OF THE NOTICE OF THE RESPONDENTS DATED 23.11.2014.

EXHIBIT P5 : COPY OF THE REPLY GIVEN BY THE PETITIONER DATED 5.12.2014.

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 10931 of 2015

Dated this the 6th day of April, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P4 notice issued to him detaining a consignment of Twin Lobe Blowers 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 as also 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 while there was invoice covering the transaction, the objection of the respondents was that the consignee's non-liability to pay tax under the KVAT Act was not ascertainable from the document that accompanied the consignment. It is pointed out by the learned counsel for the petitioner that the transportation was accompanied by a Form-16

certificate of ownership, although the same is not seen mentioned in the detention notice. The Form-16 certificate has however, been produced in the writ petition as Ext.P3. On a consideration of the said certificate and also taking note of the fact that the transportation of the goods was covered by an invoice, I direct the respondents to release the goods and the vehicle covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the notice, before the respondents.

(ii) The respondents 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 respondents.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE