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. 10972 of 2015 (V)

PETITIONER(S):

MID PACK TRADE LINKS,
7/17A, KELTRON ROAD, AROOR,
REPRESENTED BY ITS PARTNER ABDUL KARIM.K.P.

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR

RESPONDENT(S):

1.COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
B.MANJESWAR KASARAGOD DISTRICT 671123.

2.INTELLIGENCE INSPECTOR,
SQUAD NO.I, COMMERCIAL TAXES, KASARAGOD 671 121.

3.ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, SPECIAL CIRCLE, ALAPPUZHA 688 001.

R BY GOVERNMENT PLEADER SRI.P.FAIZAL

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

W.P.(C).NO.10972/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF MONTHLY RETURN FOR FEBRUARY, 2015.

EXT.P2: COPY OF INVOICE DATED 24.3.2015.

EXT.P3: COPY OF NOTICE DATED 29.3.2015 ISSUED BY THE RESPONDENT.

EXT.P4: COPY OF REPLY DTED 31.3.2015 FILED BY THE PETITIONER.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.10972 OF 2015 (V)

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.P3 notice issued to him, detaining a consignment of plastic packing material, 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.P3 notice, it is seen that the objection of the respondents is essentially that the petitioner had wrongly classified the item that was being transported, and if a correct classification of the product was done, then it would attract a higher rate of tax when sold locally. The respondents therefore suspected an attempt of evasion of tax. Counsel for the petitioner would submit that the transportation of the goods was accompanied by valid documents as contemplated under the KVAT Act, and, hence, there was no irregularity in the transportation of the goods.

(ii) Taking note of the fact, however, that the petitioner is a registered dealer within the State, 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.P3 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