

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. 11056 of 2015 (F)

PETITIONER(S):

**B. SETHURAMALINGAM, AGED 32 YEARS,
32 A, N A V KOVIL STREET, TIRUNELVELI TOWN.**

**BY ADVS.SMT.S.K.DEVI
SRI.SANTHOSH P.ABRAHAM**

RESPONDENT(S):

**1.THE INTELLIGENCE INSPECTOR
SQUAD NO.II DEPARTMENT OF COMMERCIAL TAXES,
KOLLAM AT KOTTARAKKARA 691 508.**

**2.THE COMMERCIAL TAX OFFICER (WC & LT)
DEPARTMENT OF COMMERCIAL TAXES,
KOLLAM 691 508.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

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

W.P.(C).NO.11056/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE NOTICE OR NO.2498/14-15 DATED 28.3.2015.

EXT.P2: COPY OF THE SALE DEED.

EXT.P3: COPY OF THE REPLY DATED 29.3.2015.

EXT.P4: COPY OF THE INVOICE NO.2431 DATED 14.12.2003.

EXT.P4A: COPY OF THE SALE DEED.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.11056 OF 2015 (F)

Dated this the 6th day of April, 2015

J U D G M E N T

The petitioners are aggrieved by Ext.P1 notice issued to them, detaining a hitachi excavator, that was being transported at the instance of the petitioners. In the writ petition, the petitioners are aggrieved by the insistence of the respondents that the petitioners 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 petitioners 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.P1 detention notice, it is seen that the objection of the respondents is essentially that the excavator in question was being transported without any documents. In that sense, therefore, the detention on the part of the respondents cannot be said to be unjustified. I take note of the submission of

counsel for the petitioners that the excavator was being transported for their own use in connection with certain works in Kollam, and, therefore, there was no intention to evade any tax due to the State Government. I therefore direct the 1st respondent to release the goods and the vehicle subject to the petitioners paying 25% of the security deposit amount demanded in Ext.P1 and furnishing a simple bond without sureties for the balance amount demanded in Ext.P1 notice, before the 1st respondent.

(ii) The petitioners shall also produce documents to establish the ownership of the excavator in question before the 1st respondent at the time of seeking clearance of the goods.

(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.

(iv) The petitioners shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp