IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).NO. 11297 OF 2015 (J)

PETITIONER(S):

SHRI. M.K.RANJITH, PROPRIETOR,
BROWNNIES BAKERY, TALAP,
KANNUR-670 002.

BY SRI.T.M.SREEDHARAN, SENIOR ADVOCATE.
ADVS. SRI.V.P.NARAYANAN,
SMT.DIVYA RAVINDRAN.

RESPONDENT(S):
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1. THE COMMERCIAL TAX OFFICER,
   IIIRD CIRCLE, KANNUR-670 001.

2. THE DEPUTY COMMISSIONER (APPEALS),
   DEPARTMENT OF COMMERCIAL TAXES,
   NIRMAL ARCADE, ERANHIPALAM,
   KOZHIKODE-670 006.

3. THE COMMERCIAL TAX INSPECTOR,
   COMMERCIAL TAX CHECK POST,
   GOPALAPURAM-678 024.

4. THE DEPUTY COMMISSIONER,
   COMMERCIAL TAXES, KANNUR-670 001.

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).NO. 11297 OF 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	COPY OF THE ORDER U/S.23 DATED 10/12/2013 ALONG WITH DEMAND NOTICE.
EXT.P2	COPY OF THE MEMORANDUM OF APPEAL DATED 27/12/2013 FILED BEFORE THE 2ND RESPONDENT.
EXT.P2A	COPY OF THE STAY PETITION DATED 02/04/2015 FILED BEFORE THE 2ND RESPONDENT.
EXT.P2B	COPY OF THE EARLY HEARING DATED 27/12/2013 FILED BEFORE THE 2ND RESPONDENT.
EXT.P3	COPY OF THE NOTICE RECEIVED FROM THE 3RD RESPONDENT VIDE NO.1559/2014-15 DATED 20/03/2015.
EXT.P4	COPY OF THE NOTICE NO.OR 1572/14-15 DATED 26/03/2015 FROM THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.11297 of 2015

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Dated this the 7th day of April, 2015

<u>J U D G M E N T</u>

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Exts.P3 and P4 notices issued to him detaining a consignment of bakery products that was being transported at his instance . In the writ petition, the petitioner is aggrieved by the insistence of the respondents that the petitioner must pay the defaulted tax arrears demanded in the detention notice as a condition for release of the goods and vehicle.

2. I have heard the learned counsel for the petitioner and also the learned Government Pleader 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 Exts.P3 and P4 detention notices, it is seen that the objection of the respondents is essentially that there was an alert received by the respondents pointing out that the petitioner is a defaulter of arrears of tax for the assessment year 2013-2014, and hence, the goods could be released only on payment of the overdue amounts for the said assessment year. Counsel for

the petitioner would submit that subsequent to the detention, the petitioner has already preferred appeals and stay petitions against the orders confirming the demand of tax and penalty for the assessment year 2013-2014 before the 2nd respondent, and the said petitions are pending consideration before the said respondents.

(ii) Taking note of this fact, and the fact that the petitioner is a registered dealer in the State, I direct the 3rd respondent to release the goods and the vehicle on the petitioner producing a copy of this judgment before him.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns