

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 11764 of 2015 (U)

PETITIONER(S):

**DECCAN METAL PROFILERS PRIVATE LIMITED,
I-423A, NEAR INDIAN OIL CORPORATION,
SEAPORT - AIRPORT ROAD, IRUMBANAM,
THRIPUNITHURA, ERNAKULAM, KOCHI - 682 309.
REPRESENTED BY ITS MANAGING DIRECTOR
SRI.ANJIKAPADATH SALIM SHAJAHAN.**

**BY ADVS.SRI.R.MOHANDAS
SRI.V.KSHAMUSUDHEEN
SRI.MANOJ KUMAR.M**

RESPONDENT(S):

**THE COMMERCIAL TAX INSPECTOR
COMMERCIAL TAXES CHECK POST,
BANGRA MANJESHWAR, KASARAGODE 671 323.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REGISTRATION CERTIFICATE DATED 22.5.2013.

EXT.P2: COPY OF THE INVOICE OF M/S.ASIAN COLOUR COATED ISPAT LTD. BEARING NO.09306 DATED 14.3.2015.

EXT.P3: COPY OF THE INVOICE OF M/S.ASIAN COLOUR COATED ISPAT LTD. BEARING NO.09339 DATED 15.3.2015.

EXT.P4: COPY OF THE CONVERSION BILL BEARING NO.DECCAN/14015/418 DATED 24.3.15.

EXT.P5: COPY OF DELIVERY CHALAN OF M/S.DECCAN STEEL TUBES, BEARING NO.418 DATED 24.3.2015.

EXT.P6: COPY OF ANNEXURE VI- SUBSIDIARY CHALAN OF M/S.DECCAN STEEL TUBES, BEARING NO.000418 DATED 24.3.2015.

EXT.P7: COPY OF LETTER OF M/S.DECCAN STEEL.

EXT.P8: COPY OF THE PERMIT.

EXT.P9: COPY OF THE ONLINE GENERATED DEPARTMENTAL DELIVERY NOTICE IN FORM NO.15 BEARING NO.320713/DN/32585/2014 DATED 28.3.2015.

EXT.P10: COPY OF THE LETER OF THE PETITIONER DATED 24.3.2015 ALONG WITH STATEMENT OF CONSIGNMENT.

EXT.P11: COPY OF THE ONLINE GENERATED DEPARTMENTAL DELIVERY NOTE IN FORM NO.15 BEARING NO.320713/DN/32545/2014 DATED 28.3.2015.

EXT.P12: COPY OF THE ONLINE GENERATED 8F DECLARATION BEARING NO.32071309986/2014-15/567 DATED 27.3.2015.

EXT.P13: COPY OF THE NOTICE ISSUED BY THE RESPONDENT DATED 4.4.2015 BEARING NO.13/15-16.

EXT.P14: COPY OF THE NOTICE ISSUED BY THE RESPONDENT DATED 4.4.2015 BEARING NO.15/15-16.

EXT.P15: COPY OF THE INVOICE OF M/S.ASIAN COLOUR COATED ISPAT LTD. BEARING NO.09527 DATED 22.3.2015.

EXT.P16: COPY OF THE CONVERSION BILL BEARING NO.DECCAN/15-16/002 DATED 1.4.15.

W.P.(C).NO.11764/2015

EXT.P17: COPY OF DELIVERY CHALAN OF M/S.DECCAN STEEL TUBES, BEARING NO.002/15-16. DATED 01.4.2015.

EXT.P18: COPY OF ANNEXURE VI - SUBSIDIARY CHALAN OF M/S.DECCAN STEEL TUBES, BEARING NO.000002 DATED 1.4.2015.

EXT.P19: COPY OF LETTER OF M/S.DECCAN STEEL.

EXT.P20: COPY OF THE PERMIT.

EXT.P21: COPY OF THE ONLINE GENERATED DEPARTMENTAL DELIVERY NOTICE IN FORM NO.15 BEARING NO.320713/DN/79/2015 DATED 1.4.2015.

EXT.P22: COPY OF THE LETTER OF THE PETITIONER DATED 1.4.2015 ALONG WITH STATEMENT OF CONSIGNMENT.

EXT.P23: COPY OF THE ONLINE GENERATED DEPARTMENTAL DELIVERY NOTICE IN FORM NO.15 BEARING NO.320713/DN/37/2015 DATED 1.4.2015.

EXT.P24: COPY OF THE ONLINE GENERATED 8F DECLARATION BEARING NO.32071309986/2015-16/3 DATED 1.4.2015.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.11764 OF 2015 (U)

Dated this the 9th 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 Exts.P13 and P14 notices issued to him, detaining consignments of galvanised tubes, that were being transported at the instance of the petitioner. In the writ petition, the petitioner is aggrieved by the insistence of the respondent 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 respondent.

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.P13 and P14 detention notices, it is seen that the objection of the respondent

is essentially that, although the petitioner had claimed that the goods that were being transported were goods that were received from the supplier in Maharashtra, after job work on the same, there was no document produced to suggest that it was job worked material. It was under these circumstances that the respondent suspected an evasion of tax and detained the vehicle and the goods. Counsel for the petitioner would submit that the goods were sourced from Maharashtra and it was sent from the premises of the vendor directly to the job worker, and it was after being worked upon, that the goods were then despatched to the petitioner based on the purchase order. Be that as it may, I find that the detention notices do not refer to any documents that showed that the goods that were being transported were job worked goods, although the petitioner would vehemently contend that there were such documents.

(ii) Taking note of the fact, however, that the petitioner is a registered dealer within the State, I direct the respondent to release the goods subject to the petitioner paying 25% of the security deposit amount demanded in Exts.P13 and P14 and furnishing a simple bond without sureties for the balance amount demanded in Exts.P13 and P14 notices, before the respondent.

(iii) The 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 petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp