

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 11820 of 2015 (B)

PETITIONER(S):

**BASHEER.P.M.,S/O.MAKKAR,
PROPRIETOR, PAM TILES PARK,
THANKALAM, KOTHAMANGALAM,
ERNAKULAM DIST.
TIN - 32151508604**

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S):

**INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, SQUAD NO.V,
IDUKKI, IDUKKI AT RAJAKAD - 685566**

**INTELLIGENCE OFFICER,
COMMERCIAL TAXES, SQUAD NO.V,
IDUKKI, IDUKKI AT RAJAKAD - 685566**

**THE COMMISSIONER,
COMMERCIAL TAXES DEPARTMENT,
VIKAS BHAVAN, TRIVANDRUM - 695001**

**STATE OF KERALA, REP. BY SECRETARY TO GOVT.
COMMERCIAL TAXES DEPARTMENT,
GOVT. SECRETARIAT, TRIVANDRUM - 695001.**

R BY GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AD/

WP(C).No. 11820 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: THE TRUE COPY OF THE TAX INVOICE IN FORM NO.8 DATED 6/4/2015

**EXHIBIT P2: THE TRUE COPY OF THE CERTIFICATE OF REGISTRATION IN THE BSMI
AGENCIES, ADIMALI DATED 29/7/2011**

**EXHIBIT P3: THE TRUE COPY OF THE NOTICE DATED 7/4/2015 ISSUED BY THE IST
RESPONDENT DEMANDING SECURITY DEPOSIT OF RS.31,900/-.**

**EXHIBIT P4: THE TRUE COPY OF THE TAX INVOICE WITHOUT MENTIONING THE
BUYER'S TIN DATED 6/4/2015.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 11820 of 2015 (B)

.....
Dated this the 8th day of April, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P3 detention notice whereby, a consignment of tiles, that was being transported at the instance of the petitioner, was detained by the respondents. 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. Heard Sri.C.K.Sreejith, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, 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 Ext.P3, it is seen that, the objection on the part of the respondents is essentially with regard to the fact that, in the Form-8 invoice that accompanied the transportation, the TIN number of the consignee was not mentioned. Accordingly, it was not clear as to whether the consignment was intended for a registered dealer or an unregistered dealer. The learned counsel would submit that, inasmuch as the petitioner is a registered dealer and there is no dispute with regard to the payment of tax on the transaction by the petitioner, the continued

detention of the goods was not justified. I find force in the said contention and direct the 1st respondent to release the goods and vehicle to the petitioner, on the petitioner furnishing a simple bond without sureties for the security deposit amount demanded in Ext.P3 detention notice, before the 1st respondent.

(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 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/08/04/

