

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. 11837 of 2015 (D)

PETITIONER :

**S.S. PLUMBING
REGISTERED OFFICE
POOTHOLIL HOUSE, NAYARAMBALAM
ERNAKULAM – 682 509
REPRESENTED BY ITS MANAGING PARTNER SRI. SUBI P.S.**

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

RESPONDENT(S) :

- 1. THE INTELLIGENCE INSPECTOR
SQUAD NO. VI, DEPT. COMMERCIAL TAXES
ERNAKULAM, PIN – 682 015.**
- 2. THE COMMERCIAL TAX OFFICER
WORKS CONTRACT & LUXURY TAXES
DEPARTMENT OF COMMERCIAL TAXES
MATTANCHERRY – 682 002.**

R1 & R2 BY SR. GOVT. PLEADER SMT. SHOBA ANNAMMA EAPEN

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

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF REGISTRATION CERTIFICATE UNDER KERALA VALUE
ADDED TAX ACT, 2005.
- EXT.P2 WORK ORDER ISSUED BY THE AWARDER DATED 16-5-2013.
- EXT. P2(a) WORK ORDER ISSUED BY THE AWARDER DATED 12-11-2014.
- EXT.P3 COPY OF TAX INVOICE DATED 7-4-2015.
- EXT.P3(a) COPY OF TAX INVOICE DATED 7-4-2015.
- EXT.P4 COPY OF NOTICE ISSUED BY THE 1ST RESPONDENT DATED 7-4-2015.
- EXT.P5 COPY OF THE RETURN SUBMITTED BY THE PETITIONER DURING THE
PERIOD 3RD QUARTER 2014-2015.
- EXT.P6 COPY OF THE REPLY FILED BEFORE THE 1ST RESPONDENT DATED
8-4-2015.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.11837 of 2015 (D)

.....
Dated this the 9th day of April, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P4 detention notice whereby, a consignment of window grills and handrails, 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.S.Anil Kumar, 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.P4 detention notice, it is seen that, the objection of the respondents is essentially with regard to the rate of tax applicable on the goods that was being transported. It is not in dispute that, the transportation of the goods was accompanied by an invoice in Form No.8CA. The learned Government Pleader on instructions would submit that, the said invoice shows the petitioner

having collected tax, which he has stated to have paid in accordance with the compounding provisions under Section 8 of the KVAT Act. I take note of the fact that, the petitioner is a registered dealer in the State and the issue of rate of tax that has to be paid by him can be adjudicated while completing the assessment in relation to the petitioner for the year in question. Inasmuch as there is no discrepancy with regard to the documents that accompanied the transportation of the goods, I am of the view that, the petitioner can be permitted to obtain a release of goods from the respondents on furnishing a simple bond without sureties for the security deposit amount demanded in Ext.P4. Under these circumstances, I 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.P4 detention notice, before the 1st respondent.

(ii) 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.

(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/09/04/