

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 12433 of 2015 (D)

PETITIONER(S):

**M/S. COAST LINERS PRIVATE LIMITED,
NO.415, 4TH FLOOR, SHREE COMPLEX, NO.73,
ST.JOHN'D ROAD, BANGALORE - 560042, REPRESENTED
BY MANAGER, BINAY KHADELWAL.**

BY ADV. SRI.C.AJITH KUMAR

RESPONDENT(S):

**THE INTELLIGENCE OFFICER,
SQUAD NO.II, MATTANCHERRY ATKARUKUTTY,
CAMP AT CTCP WALAYAR, DEPARTMENT OF COMMERCIAL
TAXES. PIN 683 576.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE PURCHASE ORDER DT.4.3.2015 ISSUED BY LARSEN AND TOUBRO.

EXT.P2: COPY OF THE CERTIFICATE ISSUED BY LARSEN & TOUBRO.

EXT.P3: COPY OF THE CERTIFICATE ISSUED BY TRANSFORMERS AND ELECTRICALS KERALA LIMITED, ANGAMALLY.

EXT.P4: COPY OF THE CERTIFICATE DATED 6.4.2015 ISSUED BY THE TRANSPORTER, MFC TRANSPORT PVT. LTD.

EXT.P5: COPY OF THE CERTIFICATE OF REGISTRATION OF HYDRAULIC TRAILER AXLE VIDE REGISTRATION NO.HR-55N-5899, AS PETITIONER.

EXT.P6: COPY OF THE CERTIFICATE DATED 4.4.2015 OF THE PETITIONER.

EXT.P7: COPY OF THE CONSIGNMENT NOTE DATED 6.4.2015.

EXT.P8: COPY OF THE FORM NO.8F DECLARATION.

EXT.P9: COPY OF THE O.R.NOTICE II/8/15-16 DATED 7.4.2015 ISSUED BY THE RESPONDENT UNDER SECTION 47(2) OF THE KVATACT, 2005.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.12433 OF 2015 (D)

Dated this the 10th day of April, 2015

J U D G M E N T

The petitioner is aggrieved by Ext.P9 notice issued to him, detaining consignment of hydraulic axle, that was being transported at the instance of the petitioner, by the respondent. 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 Ext.P9 detention notice, it is seen that the objection of the respondent is essentially

with regard to the irregularity in the documents that accompanied the transportation of the goods. In the Form 8F declaration that accompanied the goods, the goods were declared as container sealing machinery whereas the goods in question was hydraulic axle. That apart, there was no delivery note that accompanied the transportation of the goods as described under Section 46(3) of the KVAT Act. It is also not in dispute that the petitioner is not a registered dealer within the State. Under the said circumstances, I direct the respondent to release the goods and the vehicle to the petitioner subject to the petitioner paying an amount of Rs.1,00,000/- to the respondent and furnishing a simple bond without sureties for the balance amount demanded in Ext.P9 notice, 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