IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 24TH DAY OF APRIL 2015/4TH VAISAKHA, 1937

WP(C).No. 12701 of 2015 (K)
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PETITIONER(S) :

SREE VINAYAKA TIMBER INDUSTRIES,
6/181, VARODE P.O, PULIMTHARA, KOTTAYI, PALAKKAD- 678 572,
REPRESENTED BY ITS PROPRIETOR, V.MANIYAN NAIR,
S/O.GOVINDAN NAIR,VAKKAIEL HOUSE, PULLINELLI P.O, KOTTAYI VIA,
PALAKKAD.

BY ADV. SRI.B.MOHANLAL

RESPONDENT(S) :
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1. **THE INTELLIGENCE INSPECTOR,**
   SQUAD NO.1, COMMERCIAL TAXES,
   GOVERNMENT OF KERALA, ASRAMAM P.O, KOLLAM- 691 002.

2. **THE ASSISTANT COMMISSIONER,**
   SPECIAL CIRCLE, COMMERCIAL TAXES,
   PALAKKAD P.O., PALAKKAD- 678 014.

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 12701 of 2015 (K)
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APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: **THE TRUE COPY OF THE INVOICE NO.1454 AND 1453 DATED 15/04/2015 ISSUED BY THE COSIGNER M/S.DHANALAXMI TIMBERS.**

EXT.P2: **THE TRUE COPY OF THE INVOICE NO.1453 DATED 15/04/2015 ISSUED BY THE COSIGNER M/S.DHANALAXMI TIMBERS.**

EXT.P3: **THE TRUE COPY OF THE ADVANCE TAX REMITTED BY THE PETITIONER TO THE RESPONDENTS DATED 16.04.2015.**

EXT.P4: **THE TRUE COPY OF THE ADVANCE TAX REMITTED BY THE PETITIONER TO THE RESPONDENTS DATED 16.04.2015.**

EXT.P5: **THE TRUE COPY OF THE O.R.NO.110/15-16 DATED 17.04.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.**

EXT.P6: **THE TRUE COPY OF THE O.R.NO.111/15-16 DATED 17.04.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

ANIL K. NARENDRAN, J.,

W.P.(C)No.12701 of 2015

Dated this the 24th day of April, 2015

JUDGMENT

The petitioner has filed this writ petition challenging Exts.P5 and P6 proceedings by which two lorries bearing Reg.Nos.TN-76-L-4461 and TN-04-AK-4375 carrying timber from Shenkottah, was intercepted by the 1st respondent. The petitioner was issued with Exts. P5 and P6 notices of the 1st respondent demanding a security deposit of Rs.1,91,025/- and 1,80,235/- respectively under Section 47(2) of the KVAT ACT, 2003. The said notices are under challenge in this writ petition.

2. I heard the learned counsel for the petitioner and also the learned Government Pleader appearing for the official respondents. The learned Government Pleader, on instructions, submitted that the lorries were intercepted 70 km away from the route mentioned in the invoice and that is also a place where there are a large number of timber merchants. Therefore, according to the learned Sr.Government Pleader, there is every likelyhood of an attempt made by the petitioner for evasion of tax.

3. I have considered the rival submissions made by both sides.

4. Considering the fact that, Exts.P5 and P6 notices were issued under Section 47(2) of the KVAT Act demanding security deposit from the petitioner, I am not, prima facie, inclined to interfere at this stage. It is for the petitioner to submit objection to Exts.P5 and P6 and contest the matter before the 1st respondent.

5. Therefore, this writ petition is disposed of with the following direction.

If the petitioner files objection to Exts.P5 and P6 within a period of two weeks from today, the 1st respondent shall consider and pass final orders on Exts. P5 and P6, as expeditiously as possible, at any rate, within two months from the date of receipt of such objection, with notice to the petitioner. Pending such adjudication, the 1st respondent is directed to release the timber and vehicles covered by Exts.P5 and P6, on the petitioner depositing 50% of the amount covered by Exts.P5 and P6 as security and furnishing a simple bond for the balance amount. Any amount paid by the petitioner towards advance tax shall be taken into credit, while directing him to remit 50% of the amount as aforesaid.

Sd/-

ANIL K. NARENDRAN
JUDGE

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