IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

WP(C).No. 17269 of 2015 (G)

PETITIONER(S) :
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1. **V.HASHIM,**
   DIRECTOR, EXCEL TIMBERS, KODAMPUZHA ROAD,
   P.O.FEROKE, CALICUT - 673 631.

2. **EXCEL TIMBERS PRIVATE LIMITED,**
   KODAMPUZHA ROAD, P.O.FEROKE, CALICUT - 673 631,
   BY MANAGING DIRECTOR - V. MAMMU.

   BY ADVS.SRI.P.RAGHUNATH
   SRI.PREMJIT NAGENDRAN

RESPONDENT(S) :
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1. **THE COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAX CHECK POST, B.MANJESWAR,
   KASARAGOD - 671 121.

2. **THE COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAX CHECK POST, MEENAKSHIPURAM,
   PALAKKAD- 678 001.

3. **COMMISSIONER OF COMMERCIAL TAXES,**
   THIRUVANANTHAPURAM- 695 05.

   BY GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 17269 of 2015 (G)
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APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: COPY OF THE JUDGMENT IN GUGANBABU ON VS.COMMERCIAL TAX INSPECTOR, CTCP, BANGRA MANJESWAR, KASARAGOD AND ANOTHER 2015 (23) KTR 161 (KER).

EXHIBIT-P2: NOTICE ISSUED BY FIRST RESPONDENT DATED 05/06/2015.

EXHIBIT-P3: REPLY TO EXHIBIT-P2 NOTICE.

EXHIBIT-P4: COPY OF TRANSIT PASS NO. 321310/2292/2015-16 DATED 29/04/2015.

EXHIBIT-P5: COPY OF INVOICE NO. 70 DATED 04/05/2015.

EXHIBIT-P6: COPY OF DELIVERY NOTE DATED 05/05/2015.

EXHIBIT-P7: COPY OF ADVANCE TAX UTILISATION.

EXHIBIT-P8: COPY OF LETTER FORWARDING ORIGINAL TRANSIT PASS DATED 05/05/2015.

EXHIBIT-P9: COPY OF POSTAL ACKNOWLEDGMENT.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.17269 of 2015

Dated this the 11th day of June, 2015

J U D G M E N T

The petitioners challenge the detention of vehicle owned by the first petitioner along with goods belonging to the second petitioner by the 1st respondent. The reason for detention is that, the transit pass in respect another transportation has not been surrendered at the check post by the owner of the vehicle in an earlier occasion.

2. The learned counsel for the petitioners relies on the judgment of this Court in ***Guganbabu O.N. v. Commercial Tax Inspector, Commercial Tax-Check Post, Bangra Manjeswar, Kasargode and Another [2015 (23) KTR 161]*** against the detention. It is submitted that, they have already surrendered the transit pass.

3. In the light of the dictum referred above, I am of the view that, the vehicle and goods shall be released to the petitioner on executing a simple bond without sureties. The owner of the vehicle shall co-operate with any enquiry as contemplated under Section 48 of the KVAT Act.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

AV