

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WP(C).No. 19857 of 2015 (F)

PETITIONER:

**M/S.PETRON ENGINEERING CONSTRUCTION LTD,
C/O.BHARATH PETROLEUM CORPORATION LTD.,
KOCHI REFINERY, POST BAG NO.2, AMABALAMUGAL,
ERNAKULAM DISTRICT - 682 302, REPRESENTED BY
ITS SR.ACCOUNTS ASSISTANT MR.ABRAHAM T.S.**

BY ADV. SMT.K.LATHA

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. COMMERCIAL TAX OFFICER(WORKS CONTRACT),
O/O.THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES DEPARTMENT,
ERNAKULAM, KOCHI - 682 018.**
- 3. THE INTELLIGENCE INSPECTOR SQUAD NO.VIII,
DEPARTMENT OF COMMERCIAL TAXES,
GOVERNMENT OF KERALA, THEVARA,
ERNAKULAM - 682 018, CAMP AT WALAYAR - 678 105.**

BY SENIOR GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER'S EXHIBITS:

- EXT. P1 : THE TRUE COPY CERTIFICATE OF REGISTRATION IN FORM 1 A ISSUED UNDER KERALA VALUE ADDED TAX RULES BY THE SECOND RESPONDENT TO THE PETITIONER ALONG WITH ITS CONNECTED DOCUMENTS.
- EXT. P2 : THE TRUE COPY OF AGREEMENT BETWEEN THE PETITIONER COMPANY'S MUMBAI OFFICE WITH BHARATH PETROLEUM CORPORATION LIMITED (BPCL), KOCH REFINERY, KERALA BASED ON PURCHASE ORDER NO.4504430472 & 4504430480 DATED 4.12.2013 ALONG WITH IT'S FAX OF ACCEPTANCE DATED 4.12.2013.
- EXT. P3 : THE TRUE COPY OF PURCHASE ORDER DATED 3.4.2015 ISSUED BY THE PETITIONER COMPANY TO MURUGAPPA MORGAN THERMAL CERAMICS LTD., VELLORE, TAMILNADU.
- EXT. P4 : THE TRUE COPY OF INVOICE NO.1A 150000432 DATED 25TH JUNE 2015 ISSUED BY THE MURUGAPPA MORGAN THERMAL CERAMICS LTD., VELLORE, TAMILNADU IN THE NAME OF BPCL., AMBALAMUGAL, COCHIN AS THE CONSIGNEE.
- EXT. P5 : THE TRUE COPY OF FORM NO.8F DATED 27TH JUNE 2015.
- EXT. P6 : THE TRUE COPY OF THE DETENTION NOTICE OR NO.325/2015-16 BOTH DT.27.6.2015 ISSUED BY THE THIRD RESPONDENT U/S 47(2) OF THE K VAT ACT TO THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A. MUHAMED MUSTAQUE, J.

W.P.(C). No. 19857 of 2015

Dated this the 1st day of July, 2015

J U D G M E N T

The petitioner challenges the detention notice. The petitioner has been awarded by the contract. The reason for detention is that, the consignee is shown as BPCL and buyer is shown as the petitioner. Therefore, it is suspect that attempt is to evade tax and the petitioner is trying to the effect the sale in transit.

2. The petitioner's case is that, as far as the works contract is concerned, it has been shown that the transit is as per the terms and conditions of the contract.

Taking note of the nature of issue, I am of the view that the goods shall be released to the petitioner on executing a simple bond without sureties.

The writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.