

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937**

**WP(C).No. 21430 of 2015 (C)**  
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**PETITIONER(S):**  
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**M/S.BERGER PAINTS INDIA LTD, DOOR NO.III/835 C,  
1ST FLOOR, VALIYARA CHAMBERS, K.K.ROAD,  
CHEMBUMUKKU, COCHIN-682021,  
REPRESENTED BY ITS ADMINISTRATION EXECUTIVE SRI.P.GPILLAI.**

**BY ADVS.SRI.TOMSON T.EMMANUEL  
SRI.JENSON FRANCIS PAYANKAN**

**RESPONDENT(S):**  
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- 1. COMMERCIAL TAX INSPECTOR,  
COMMERCIAL TAXES, OFFICE OF THE DEPUTY COMMISSIONER,  
KALLUPALAM, ALAPPUZHA-688001.**
- 2. COMMERCIAL TAX OFFICER (WORKS CONTRACT),  
COMMERCIAL TAXES, OFFICE OF THE DEPUTY COMMISSIONER,  
KALLUPALAM, ALAPPUZHA-688001.**
- 3. ASSISTANT COMMISSIONER,  
COMMERCIAL TAXES, SPECIAL CIRCLE,  
MATTANCHERY AT ALUVA-683101.**

**BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**PJ**

**APPENDIX**

**PETITIONERS' EXHIBITS**

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- P1: COPY OF REGISTRATION CERTIFICATE DATED 23/5/14 UNDER THE KERALA VALUE ADDED TAX ACT ISSUED TO THE PETITIONER BY R3**
- P2: COPY OF STOCK TRANSFER NOTE (STOCK TRANSFER INVOICE) NO.13883989 DATED 13/7/15 RAISED FROM AROOR BRANCH TO KOLLAM BRANCH FOR INTER-DEPOT STOCK TRANSFER OF PAINTS**
- P2(A): COPY OF STOCK TRANSFER NOTE (STOCK TRANSFER INVOICE) NO.13884002 DATED 13/7/15 RAISED FROM AROOR BRANCH TO KOLLAM BRANCH FOR INTER-DEPOT STOCK TRANSFER OF PAINTS**
- P3: COPY OF ONLINE DELIVERY NOTE NO.321502/DN/17428/2015 DATED 13/7/15 RAISED AT 12.24 PM BY THE ADMINISTRATIVE OFFICE OF THE PETITIONER AND MADE AVAILABLE TO AROOR BRANCH FOR TRANSPORTING PAINTS AS PER EXT.P2 AND P2(A) STOCK TRANSFER INVOICES**
- P4: COPY OF NOTICE NO.58/15-16 DATED 13/7/15 ISSUED BY R1 DEMANDING SECURITY DEPOSIT, U/S.47(2) OF THE KVAT ACT, ALLEGING THAT EXT.P3 DELIVER NOTE IS PHOTO COPY**
- P5: COPY OF REPLY DATED 14/7/15 SUBMITTED BY PETITIONER BEFORE R1 PRODUCING THE ORIGINAL PRINT OUT FROM THE ADMINISTRATIVE OFFICE**
- P6: COPY OF LETTER DATED 14/7/15 ISSUED TO PETITIONER BY R2 IN REUSING TO RELEASE THE DETAINED PAINTS AND TRANSPORT VEHICLE, DIRECTING TO REMIT SECURITY DEPOSIT.**

**RESPONDENTS' EXHIBITS**

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**NIL.**

**/ TRUE COPY /**

**P.S. TO JUDGE**

**PJ**

**A. MUHAMED MUSTAQUE, J.**

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**W.P(C). No. 21430 of 2015**  
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**Dated this the 15<sup>th</sup> day of July, 2015**

**J U D G M E N T**

The petitioner is a registered dealer. The goods have been detained as per Ext.P4 alleging that, petitioner is using original delivery note repeatedly.

2. The case of the petitioner is that, the delivery note was made through online digital signature and there is no intention to evade tax.

3. Considering the facts and circumstances, the goods shall be released to the petitioner on executing a simple bond without any further conditions.

This writ petition is disposed of.

Sd/-

**A. MUHAMED MUSTAQUE, JUDGE.**