

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

WP(C).No. 21580 of 2015 (V)

PETITIONER:

**EXIDE INDUSTRIAL LIMITED,
DOOR NO.13/562 A-1, MANJUMMEL,
ELOOR MUNICIPALITY - 683 601,
ERNAKULAM DISTRICT,
REPRESENTED BY MR.BINU M. OMMEN -
MANAGER & AUTHORISED SIGNATORY.**

**BY ADVS.SRI.JOSEPH JERARD SAMSON RODRIGUES
SRI.ROVIN RODRIGUES**

RESPONDENT:

**INTELLIGENCE INSPECTOR,
SQUAD NO.1, DEPT. OF COMMERCIAL TAXES,
ERNAKULAM AT EDAPPALLY - 682 024,
ERNAKULAM DISTRICT.**

BY SENIOR GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER'S EXHIBITS:

- EXT. P1 : TRUE PHOTOCOPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER, ISSUED BY THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE-I, DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM
- EXT. P2 : TRUE PHOTOCOPY OF THE TAX INVOICE NO.1112843830 DATED 10.7.2015 FOR RS.1,79,553/- ISSUED BY THE PETITIONER.
- EXT. P3 : TRUE PHOTOCOPY OF THE TAX INVOICE NO.1112843845 DATED 10.7.2015 FOR RS.37,087/-, ISSUED BY THE PETITIONER.
- EXT. P4 : TRUE PHOTOCOPY OF NOTICE NO.OR I/OSA 13/15-16 DATED 13.7.2015, ISSUED BY THE INTELLIGENCE INSPECTOR, SQUAD NO.I, COMMERCIAL TAXES, ERNAKULAM AT EDAPPALLY - 682 024.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.21580 of 2015
.....

Dated this the 17th day of July, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Ext.P4 detention notice issued to him detaining a consignment of battery that was being transported from Manjummel to Ernakulam. 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 for the petitioner and also the learned Government Pleader 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.P4 detention notice it is seen that the objection of the respondent is essentially with regard to the fact that the vehicle was intercepted on 13.07.2015 at a distance of about 12 Kilometres from the billing place, and the

invoice under cover of which the consignment was transported was dated 10.07.2015 and the despatch date was shown as 11.07.2015. The respondent therefore suspected that multiple transactions were carried out using the same invoice.

(ii) I note, however, that the petitioner is a registered dealer in the State and the transportation was covered by valid documents as contemplated under Section 46(3) of the KVAT Act and, in that view of the matter, I direct the respondent to release the goods and the vehicle to the petitioner on the petitioner furnishing a simple bond without surety for the security deposit amount demanded therein.

(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 respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE