

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 21804 of 2015 (A)

PETITIONER :

**M/S.BERGER PAINTS INDIA LTD.,
DOOR NO. III/835 C, 1ST FLOOR, VALIYARA CHAMBERS
K.K. ROAD, CHEMBUMUKKU, COCHIN – 682 021
REPRESENTED BY ITS ADMINISTRATION EXECUTIVE
SRI. P.G. PILLAI.**

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

RESPONDENT(S) :

- 1. INTELLIGENCE INSPECTOR
COMMERCIAL TAXES, SQUAD NO. IV
KOZHIKODE – 673 006.**
- 2. COMMERCIAL TAX INSPECTOR
COMMERCIAL TAXES,
OFFICE OF THE DEPUTY COMMISSIONER
JAWAHAR NAGAR, KOZHIKODE – 673 006.**
- 3. ASSISTANT COMMISSIONER
COMMERCIAL TAXES, SPECIAL CIRCLE
MATTANCHERY AT ALUVA – 683 101.**

R1 TO R3 BY SR. GOVT. PLEADER SMT. SHOBA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF REGISTRATION CERTIFICATE DATED 15.5.2015 UNDER THE KERALA VALUE ADDED TAX ACT ISSUED TO THE PETITIONER BY 3RD RESPONDENT.
- EXT.P2 COPY OF TAX INVOICE NO. 036-3553 DATED 29.6.2015 DISPATCHED ON 14.7.2015 TO ITS CUSTOMER DEALER FOR THE LOCAL SALE OF PAINTS, WHEREIN TAX @ 14.50% COLLECTED.
- EXT.P2(a) COPY OF TAX INVOICE NO. 036-3721 DATED 30.6.2015 DISPATCHED ON 14.7.2015 TO ITS CUSTOMER DEALER FOR THE LOCAL SALE OF PAINTS, WHEREIN TAX @ 14.50% COLLECTED.
- EXT.P3 COPY OF GATE PASS NO. 15162 DATED 14.7.2015 FOR VEHICLE NO. KL11 AC 2101 FOR REMOVAL OF PAINTS WITH EXT.P2 AND P2(a) TAX INVOICES DESIGNATED TO MANJERI AND MUKKAM ROAD.
- EXT.P4 COPY OF DECLARATION DATED 14.7.2015 ISSUED TO PETITIONER IN REJECTING PAINTS SENT AS PER EXT.P2 TAX INVOICE FOR NON AVAILABILITY OF SPACE IN GODOWN.
- EXT.P4(a) COPY OF DECLARATION DATED 14.7.2015 ISSUED TO PETITIONER IN REJECTING PAINTS SENT AS PER EXT.P2(a) TAX INVOICE, FOR NOT MATCHING WITH THE ORDERED ITEM.
- EXT.P5 COPY OF NOTICE NO. VCR.IV/2015-16/617 DATED 14.7.2015 ISSUED U/S. 47(2) OF THE KVAT ACT BY 1ST RESPONDENT THROUGH THE DRIVER OF TRANSPORT VEHICLE, DEMANDING SECURITY DEPOSIT.
- EXT.P6 COPY OF E-RETURN SUBMITTED FOR THE MONTH OF JUNE 2015, WHERE IN TAX PAID INCLUDING THE SALES TURNOVER COVERED IN EXT.P2 AND P2(a) TAX INVOICES BEFORE 3RD RESPONDENT.

(Contd...)

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EXT.P7 COPY OF REPLY DATED 15/07/2015 SUBMITTED BY PETITIONER
BEFORE 2ND RESPONDENT, PRODUCING ORIGINALS TO EXT.P4 AND
P4(a) FOR IMMEDIATE RELEASE OF GOODS AND TRANSPORT
VEHICLE.

EXT.P8 COPY OF LETTER DATED 17.7.2015 ISSUED TO THE PETITIONER BY
1ST RESPONDENT, REJECTING EXT.P7.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.21804 of 2015

Dated this the 20th day of July, 2015

J U D G M E N T

The petitioner, a registered dealer, has approached this Court challenging Ext.P5 detention notice. As per the notice, the petitioner has been directed to furnish security deposit of ₹97,900/-. The goods under transport are rejected goods by the consignee. The petitioner relies on Ext.P4 and P4(a) to substantiate the same.

2. The reason for detention is that, the petitioner has not declared the goods in the enroute check post at Feroke. The petitioner submits that, there are several routes to transport and therefore, there was no intention for non-declaring the goods at Feroke check post.

3. In view of the facts and circumstances of the case, this Court finds that, the goods and vehicle shall be released to the petitioner on executing a simple bond without any further conditions.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.