

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 25TH DAY OF AUGUST 2015/3RD BHADRA, 1937

WP(C).No. 26253 of 2015 (F)

PETITIONER :

**M/S. ASLAM MOHAMMED PROPERTIES PVT LTD.,
KALPAKANCHERRY, MALAPPURAM, REPRESENTED
BY ITS AUTHORIZED SIGNATORY
MR. PRASANNA CHANDRA KARTHA**

BY ADV. SRI.A.KUMAR

RESPONDENT :

**INTELLIGENCE INSPECTOR, SQUAD NO VIII,
OFFICE OF INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES (INTELLIGENCE)
THEVARA, ERNAKULAM - 682002.**

BY GOVERNMENT PLEADER SMT. K.T. LILLY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE CERTIFICATE OF INCORPORATION.**
- P2: COPY OF THE TAX INVOICE DT 20/8/2015.**
- P3: COPY OF THE FORM 8F DECLARATION DT 20/8/2015.**
- P4: COPY F THE CERTIFICATE OF OWNERSHIP DT 12/8/2015.**
- P5: COPY OF THE DECLARATION DT 14/8/2015.**
- P6: COPY OF THE NOTICE DT 23/8/2015.**
- P7: COPY OF THE REVISED NOTICE DT 23/8/2015.**
- P8: COPY OF THE CERTIFICATE DT 29/6/2015.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.26253 of 2015

.....
Dated this the 25th day of August, 2015

JUDGMENT

The petitioner, is aggrieved by Exts.P6 and P7 notices issued to him, detaining an Excavator machine that was being transported at the instance of the petitioner for his own use. 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 Exts.P6 and P7 detention notices, it is seen that the objection of the respondents is essentially that there is a possibility that the goods were brought in for commercial purposes. Possibility of misuse is what is stated as a reason for detaining the goods. Counsel for the petitioner would submit that, the goods were duly accompanied by Form 8F, Form 16 and the tax invoice

evidencing purchase of the goods and, inasmuch as the goods were brought for his own use, there was no justification for the detention of the goods in question. I find force in the contention of counsel for the petitioner that the goods, that were duly accompanied by by Form 8F, Form 16 and a tax invoice could not have been subjected to a detention. Accordingly, there will be a direction to 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 in Exts.P6 and P7 detention notices, before the respondent.

(ii) 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

