

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

WP(C).No. 26277 of 2015 (H)

PETITIONER :

**M/S.EDAPPAYIL FLOORINGS,
NADUVATTAM (POST) KOPPAM,
PALAKKAD-679 308,
REPRESENTED BY IT'S MANAGING PARTNER ANWAR EDAPPAYIL.**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SRI.P.UNNIKRISHNAN (THRISSUR)**

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.V, DEPT. COMMERCIAL TAXES,
MALAPPURAM AT NILAMBUR-679 329.**
- 2. THE INTELLIGENCE OFFICER, SQUAD NO.V,
DEPT. COMMERCIAL TAXES,
MALAPPURAM AT NILAMBUR-673 329**
- 3. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAX CHECK POST, VAZHIKADAVU,
DEPT. COMMERCIAL TAXES, MALAPPURAM DISTRICT-676 505**
- 4. THE COMMERCIAL TAX OFFICER, DEPT. COMMERCIAL TAXES,
PATTAMBI-679 303**

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING :**

sts

WP(C).NO.26277/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REGISTRATION CERTIFICATE UNDER KERALA VALUE ADDED TAX ACT TIN NO.32091177734 DATED 09/10/2013.**
- P2 COPY OF THE INVOICE NO.0342 DATED 21/08/2015 AN AMOUNT OF RS.95,962/- ISSUED BY M/S. PARAMOUNT STONES, BANNERGHATTA ROAD, BANGALORE TO THE PETITIONER.**
- P3 COPY OF THE FORM 8F DECLARATION NO.32091177734/2015-16/177 DATED 22/08/2015 REMITTED THE ADVANCE TAX SUBMITTED BY THE PETITIONER.**
- P4 COPY OF THE WRITTEN CONSENT DATED NIL ISSUED BY THE PETITIONER TO THE OWNER OF THE GOODS IN THE SECOND VEHICLE**
- P5 COPY OF THE NOTICE NO.OR/VC/363/15-16/V DATED 22/08/2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.**
- P6 COPY OF THE JUDGMENT OF WRIT PETITION BEARING NO.26227/2015 © DATED 25/08/2015**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 26277 of 2015

Dated this the 31st day of August, 2015

JUDGMENT

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P5 notice issued to him by the respondents, detaining a consignment of granite slabs, that was being transported, at the instance of the petitioner, at Vazhikadavu Check post. In the writ petition, the petitioner is aggrieved by the insistence of the respondents 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 appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

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.P5 detention notice, it is seen that the objection of the respondents is with regard to the quantity that was found in the vehicle in that, while the declared quantity was 1808 sq.ft., there was an excess quantity of 1240.70 sq. ft.

detected in the vehicle. It is the contention of the learned counsel for the petitioner that the vehicle which was bringing the consignment had broken down and the petitioner was forced to transfer the quantity carried in the vehicle to another vehicle and it was while this transfer of granite slabs was taking place that the respondents apprehended the vehicle.

(ii) Taking note of the fact, however, that the petitioner is a registered dealer within the State, I direct the 1st respondent to release the goods and the vehicle subject to the petitioner paying the security deposit amount demanded in Ext.P5 by way of advance tax by remitting the same through E-chalan. The petitioner shall produce proof of remittance of the said amount, before the 1st respondent, as a condition for getting release of the goods as directed above.

(iii) The 1st 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, untrammelled by the observations in this judgment.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE