

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WP(C).No. 26455 of 2015 (F)

PETITIONER(S) :

**M/S.METHODEX SYSTEMS PVT. LTD.,
36/2898, KALoor KADAVANTHARA ROAD,
NEAR KATHRIKADAVU CHURCH, COCHIN- 682 017,
REPRESENTED BY IT'S REGIONAL HEAD MR.V.S.SREEKANTH.**

BY ADV. SMT.K.LATHA

RESPONDENT(S) :

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.**
- 2. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAXES, COMMERCIAL TAX CHECK POST,
WALAYAR- 678 101.**

BY GOVERNMENT PLEADER SRI.LIJU.V.STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: THE TRUE COPY OF THE PURCHASE ORDER DATED 04.08.2015
ISSUED BY THE STATE BANK OF TRAVANCORE,
THIRUVANANTHAPURAM REGIONAL OFFICE TO THE
PETITIONER'S PITHAMPUR OFFICE.**

**EXHIBIT P2: TRUE COPY OF THE EXCISE INVOICE NO.PF/OP/16/0740
DATED 07.08.2015 ISSUED BY THE PETITIONER'S PITHAMPUR
OFFICE, MADHYAPRADESH TO THE STATE BANK OF
TRAVANCORE, VARKALA BRANCH.**

**EXHIBIT P3: THE TRUE COPY OF THE FORM NO.8F DECLARATION
DATED 13 AUGUST 2015 DECLARING THE P2 INVOICE AND
THE CORRESPONDING CERTIFICATE OF OWNERSHIP IN
FORM NO.16 DATED 13.08.2015.**

**EXHIBIT P4: THE TRUE COPY OF THE DETENTION NOTICE NO.OR 2441/9/
2015-16 DATED 15.08.2015 ISSUED BY THE SECOND RESPONDENT
U/S 47(2) OF THE KVAT ACT TO THE PETITIONER.**

**EXHIBIT P5: THE TRUE COPY OF THE REPLY TO THE P4 DETENTION NOTICE
DATED 17.08.2015 FILED BY THE PETITIONER BEFORE
THE SECOND RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.26455 of 2015

.....
Dated this the 1st day of September, 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 furniture that was being transported at the instance of the petitioner. 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 for the petitioner and also the learned Government Pleader 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.P4 detention notice, it is seen that the objection of the respondents is essentially with regard to the documents that did not accompany the transportation of the goods in question. It is the stand of the respondents that the petitioner did not produce any documents to show

that the transportation was for the own use of the consignee. In the writ petition, the petitioner places reliance on Form No.8F declaration that was submitted by the petitioner which clearly indicated that the item in question was intended for the State Bank of Travancore, Varkala Branch. The petitioner also produces Ext.P3(a) Form No.16 which was given by the State Bank of Travancore, Varkala Branch indicating that the item in question was for its own use. In view of the said documents produced by the petitioner, I am of the view that, there is no scope for any further detention of the goods in question.

(ii) It is also not in dispute that the petitioner is a registered dealer in the State. Accordingly, I direct the 2nd 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 Ext.P4 detention notice.

(iii) The respondents 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
2nd respondent for further action.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns