

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

WP(C).NO. 26562 OF 2015 (U)

PETITIONER(S):

**KANKANI STEELS AND FERRO ALLOYS, 6/659,
CHUTTIPARA,
VENGODI P.O
ELAPPULLY
PALAKKAD REPRESENTED BY ITS PARTNER RAM BABU,
SON OF VISHNU NARAYANAN, AGED 27 YEARS**

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR, SQUAD NUMBER 1,
COMMERCIAL TAXES, PALAKKAD, PIN-678001**
- 2. THE ASSISTANT COMMISSIONER (ASSESSMENT)
COMMERCIAL TAX OFFICE, SPECIAL CIRCLE, PALAKKAD, PIN-678001**

BY GOVERNMENT PLEADER SRI.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).NO. 26562 OF 2015 (U)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: A TRUE COPY OF THE INVOICE NO.1381 DATED 31.08.2015

EXT.P2: A TRUE COPY OF THE DELIVERY NOTE DATED 31.08.2015

EXT.P3: A TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 47 (2) OF THE KVAT ACT BY THE 1ST RESPONDENT

EXT.P4: A TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER IN RESPONSE TO EXHIBIT P3

EXT.P5: A TRUE COPY OF THE BILL DATED 31.08.2015 ISSUED BY THE SHOP

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.26562 of 2015

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Dated this the 2nd 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.P3 notice issued to him detaining a consignment of steel bars, flats, plane, squares and angles 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.P3 detention notice, it is seen that, the objection of the respondents is essentially with regard to the difference in the timing, shown in the delivery note that accompanied the goods, between the time of commencement of

journey and the actual time of interception. The respondents found that, the vehicle had taken three hours to cover a distance of 7 Kilometres and thereby suspected multiple transportation using the same transport documents. Counsel for the petitioner would submit that, the vehicle had developed some trouble on route and it was therefore that a delay was occasioned. It is also not in dispute that the petitioner is a registered dealer in the State. I therefore direct the 1st respondent to release the goods and the vehicle on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P3.

(ii) 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.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

