

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937**

**WP(C).No. 26617 of 2015 (B)**  
-----

**PETITIONER :**  
-----

**JYOTHY LABORATORIES LIMITED  
KANDANASSERY P.O., THRISSUR  
BY SRI. T.V. THILAKAN, SR. OFFICER – ACCOUNTS.**

**BY ADVS.SRI.P.RAGHUNATHAN  
SRI.PREMJIT NAGENDRAN**

**RESPONDENT :**  
-----

**INTELLIGENCE INSPECTOR  
SQUAD NO. II  
DEPT. OF COMMERCIAL TAXES  
MATTANCHERRY AT KARUKUTTY-683 576.**

**BY GOVT. PLEADER SRI. LIJU V. STEPHEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 04-09-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**Mn**

**...2/-**

WP(C).No. 26617 of 2015 (B)

**APPENDIX**

**PETITIONER'S EXHIBITS :**

EXT.P1 : PHOTOCOPY OF INV. NO. 621 DT. 31.8.2015.

EXT.P2 PHOTOCOPY OF NOTICE DATED 1.9.2015 ISSUED BY RESPONDENT  
U/S. 47(2) OF ACT.

**RESPONDENT'S EXHIBITS :** NIL

**//TRUE COPY//**

**P.S. TO JUDGE**

**Mn**

**A.K.JAYASANKARAN NAMBIAR, J.**

-----  
**W.P.(C).NO.26617 OF 2015 (B)**  
-----

**Dated this the 4<sup>th</sup> 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.P2 notice issued to him, detaining a consignment of detergents etc., that was being transported at the instance of the petitioner. 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 appearing for the petitioner and also the learned Government Pleader appearing 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) A perusal of Ext.P2 detention notice indicates that the objection of the respondent is essentially with

regard to the date and time shown in the transport documents, as opposed, to the time at which the goods were intercepted. Relying on the difference in time between the date of the invoice and the time at which the vehicle was intercepted the following day, the respondent suspected multiple transportation using the same invoice. Counsel for the petitioner would submit that the goods were ready for transportation on the previous day and it was considered prudent to dispatch the goods only on the next day because the dispatch of the goods on the previous day would have resulted in the goods reaching the destination after the working hours on the previous day.

(ii) I also take note of the fact that the petitioner is a registered dealer within the State. As I am of the view that the reason for detention is not legally sustainable, I direct the respondent to release the goods and the vehicle subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P2 notice, before the respondent.

(iii) 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, 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 respondent.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

prp