

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

WP(C).No. 26672 of 2015 (H)

PETITIONER:

**SANKAR ANURAGAM, AGED 45 YEARS,
S/O A. REGHUNATH, HOUSE NO:80-131-92-57,
ABBAS NAGAR, NEAR MRO OFFICE,
KALLUR KURNOOL, ANDHRA PRADESH-518002.**

***ADDL. 2ND PETITIONER IMPEADED**

**M/S.URC CONSTRUCTIONS (P) LIMITED, REGISTERED OFFICE,
119, POWER HOUSE ROAD, ERODE, TAMIL NADU - 638 001,
REPRESENTED BY KUMARASWAMY.S, THE PROJECT MANAGER,
M/S.URC CONSTRUCTIONS (P) LIMITED, INFOCITY, PALLIPPURAM,
TRIVANDRUM.**

**ADDL.2ND PETITIONER IS IMPEADED AS PER ORDER
DATED 10.09.2015 IN IA.13039/2015.**

**BY ADVS.SRI.K.K.VIJAYAN
SMT.MINI GANGADHARAN**

RESPONDENT(S):

- 1. THE SECRETARY TO GOVERNMENT,
THE COMMERCIAL TAXES DEPARTMENT,
SECRETARIAT, STATUE,
THIRUVANANTHAPURAM, PIN - 697 001.**
- 2. THE COMMISSIONER FOR COMMERCIAL TAXES,
DPO, MUSEUM, PALAYAM,
THIRUVANANTHAPURAM, PIN - 695 146.**
- 3. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, AMARAVILA,
NEYYATTINKARA, THIRUVANANTHAPURAM, PIN - 695121.**

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: TRUE COPY OF REGISTRATION CERTIFICATE FOR THE PETITIONER'S JCB:AP 21 BF 4406.
- EXHIBIT P2: TRUE PHOTOCOPY OF CERTIFICATE OF POLICY OF PETITIONER'S JCB:AP 21 BF 4406.
- EXHIBIT P3: TRUE PHOTOCOPY OF NOTICE NO.513/15-16 DATED 11.8.2015 ISSUED VEHICLE OWNER MR. MADHUSOOTHANA REDDY.
- EXHIBIT P4 : TRUE COPY OF REVISED NOTICE NO:OR 513/15-16 DATED 11.8.2015.
- EXHIBIT P5: TRUE COPY OF REPLY DATED 15.8.2015 GIVEN BY THE PETITIONER/THE REGISTERED OWNER OF THE CONSIGNMENT.
- EXHIBIT P6: TRUE COPY OF THE WORK ORDER ISSUED BY M/S URC CONSTRUCTIONS (P) LIMITED.
- EXHIBIT P7: TRUE COPY OF THE TERMS AND CONDITIONS ON SERVICE AND PAYMENT STIPULATED IN THE DELIVERY OF THE PETITIONER'S JCB WITH SHOWEL.
- EXHIBIT P8: TRUE COPY OF CERTIFICATE ISSUED BY M/S URC CONSTRUCTIONS (P) LIMITED SEEN RECEIVED BY THE 3RD RESPONDENT.
- EXHIBIT P9 : TRUE COPY OF VAT INVOICE NO.151140021 DATED 20.7.2015 FOR A SUM OF RS.25,60,269.24/-
- EXHIBIT P10 : TRUE PHOTOCOPY OF TAX PAID RECEIPT DATED 20.7.2015.
- EXHIBIT P11 : TRUE PHOTOCOPY OF TEMPORARY CERTIFICATE OF REGISTRATION DATED 20.7.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No.26672 of 2015

Dated this the 10th day of September, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P4 notice issued to him detaining a shovel loaded JCB that was being transported in a vehicle at the instance of the additional 2nd 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 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 as also the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P4 notice, it is seen that the objection of the respondents is essentially with regard to the fact that the transportation of the goods was not accompanied by any valid documents as contemplated under the KVAT Act. Counsel for the petitioner would

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submit that, in the event of this Court not permitting clearance of the goods without security, they may be permitted to take back the goods to Kurnool, Andhra Pradesh from where it was consigned. Taking note of the submission of the counsel for the petitioner, I direct the 3rd respondent to release the goods and the vehicle, after ensuring that the same do not enter the State of Kerala, by permitting the petitioner to take the goods back to Andhra Pradesh.

(ii) The petitioner shall produce a copy of this writ petition together with a copy of this judgment before the 3rd respondent for further action.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**