

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 26892 of 2015 (J)

PETITIONER(S):

**SATHYAN P, PROPRIETOR,
PROGRESS AGENCIES, GURUVAYOOR ROAD,
KOOTTANAD, PIN - 679 533.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN**

RESPONDENT(S):

**COMMERCIAL TAX INSPECTOR,
SQUAD NO.III, DEPARTMENT OF
COMMERCIAL TAXES, PALAKKAD, PIN - 678 001.**

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 26892 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER
DTD.23.12.2010.**

EXT.P2: TRUE COPY OF THE INVOICE NO.40 DTD.4.9.2015.

EXT.P3: TRUE COPY OF THE DELIVERY NOTE NO.0642019 DTD.4.9.2015.

EXT.P4: TRUE COPY OF THE INVOICE NO.72 DTD.4.9.2015.

**EXT.P5: TRUE COPY OF THE NOTICE NO.VC/III/284/15-16 DTD.4.9.2015 UNDER
SECTION 47(2) OF THE KERALA VALUE ADDED TAX ACT ISSUED BY
RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv**/**

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 26892 of 2015 (J)

.....
Dated this the 7th day of September, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P5 detention notice whereby, a consignment of rubber scrap, that was being transported at the instance of the petitioner, was detained by the respondent. 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. Heard Sri.N.Muraleedharan Nair, the learned counsel for the petitioner and Sri.Liju V. Stephen, the learned Government Pleader 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) On a perusal of Ext.P5 detention notice, it is seen that, the objection on the part of the respondent is essentially that the goods in question were accompanied by two invoices namely one showing the sale transaction between the petitioner and A.H.Iqbal, Rubber Dealer, who was the consignee of the petitioner and the second invoice showing the sale transaction from A.H.Iqbal Rubber Dealer to Palakkad Rubber Pvt. Ltd., who was the ultimate consignee of the goods. It is apparent, therefore, that while there was a delivery note to support the transportation of the notified

commodity covered by the first invoice, there was no delivery note in support of the transaction that was covered by the second invoice. In that view of the matter, the detention on the part of the respondent cannot be said to be unjustified. I take note, however, of the fact that the petitioner is a registered dealer in the State and that there was sufficient indication in the documents to show that the transportation was done so as to avoid an unnecessary transportation to the business premises of the first consignee at Trichur. Therefore, I direct the respondent to release the goods and vehicle to the petitioner, subject to the condition that, the petitioner pays 30% of the amount demanded as security deposit in Ext.P5 detention notice, and executes a simple bond without sureties for the balance amount demanded therein, before the respondent.

(ii) 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.

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE