

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. 26936 of 2015 (N)

PETITIONER:

**M/S.RDS PROJECTS LTD. ,
DOOR NO.27/3151, GI,
SHIHAB THANGHAL ROAD,
PANAMPILLY NAGAR, COCHIN - 36,
REPRESENTED BY ITS AUTHORIZED
SIGNATORY MR.BIPLAB NATH.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD**

RESPONDENT:

**INTELLIGENCE INSPECTOR, SQUAD NO.III,
DEPARTMENT OF COMMERCIAL TAXES,
ALAPPUZHA - 688 001.**

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:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : A TRUE COPY OF THE SUB CONTRACT AGREEMENT ENTERED INTO
 BETWEEN THE PETITIONER AND THE JOINT-VENTURE CAPITAL RDS-
 CV CC (J.V.) DATED 1.8.2015.
- EXT. P2 : A TRUE COPY OF THE INVOICE DATED 31.8.2015.
- EXT. P3 A TRUE COPY OF THE SAID NOTICE DATED 1.9.2015.
- EXT. P4 : A TRUE COPY OF THE REPLY DATED 3.9.2015.
- EXT. P5 : TRUE COPY OF THE RETURN FILED FOR THE PERIOD
 APRIL-JUNE 2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 26936 of 2015

Dated this the 7th day of September, 2015

JUDGMENT

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 chemicals 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 as also the submissions made across the bar, I dispose the writ petition with the following directions:

- (i) On a perusal of Ext.P3 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the goods were seen consigned to an address, which was not declared as a place where the petitioner was engaged in any ongoing work. The respondent therefore, suspected evasion of tax. The learned counsel for the petitioner would submit

that the contract in respect of the work, for which the material was procured was awarded only in August, and therefore, the petitioner would show the place of work to which the goods were consigned only in the next return that would be filed by them. Taking note of the said submission, and finding that the transportation of the goods was otherwise in order, and also taking into account the fact that the petitioner is a registered dealer, I direct the respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the notice, 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