

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. 26945 of 2015 (P)

PETITIONER :

**HICONS INTERLOCK PAVERS
THIRUVANIYOOR, PAZHUKKAMATTOM
PIRAVOM – 682 308
REPRESENTED BY ITS PARTNER SHIBU GEORGE.**

**BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN
SRI.UMMUL FIDA**

RESPONDENT :

**THE COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHEK POST, WALAYAR – 676 624.**

BY GOVT. 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:**

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER UNDER KVAT ACT.
- EXT.P2 COPY OF THE NOTICE DATED 3.9.2015 ISSUED BY THE RESPONDENT AT 19.06 HOURS TO THE PETITIONER.
- EXT.P3 COPY OF THE INVOICE DATED 2.9.2015 ISSUED IN FAVOUR OF THE PETITIONER.
- EXT.P4 COPY OF THE FORM NO. 8F DATED 2.9.2015 OBTAINED ONLINE BY THE PETITIONER.
- EXT.P5 PHOTOGRAPH OF THE MACHINERY PART IN WHICH CEMENT BRICKS ARE BEING MANUFACTURED BY THE PETITIONER.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 26945 of 2015
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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.P2 notice issued to him detaining a consignment of metal reinforced synthetic face laminated mould pallets 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.P2 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the item that was being transported had been procured by the petitioner by availing concessional rate of tax under the CST Act and the registration certificate of the petitioner under the

CST Act, did not contain the particular goods as goods in respect of which the petitioner was permitted to trade. Counsel for the petitioner would submit, with reference to photographs of the item transported that the goods in question were essential parts of the machinery that was used by the petitioner for making cement bricks. He would point to Ext.P1 certificate of registration which includes brick making machinery and its parts as items in which the petitioner can deal with as per the registration. 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