

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

WP(C).No. 26977 of 2015 (V)

PETITIONER :

**M/S.GEO EQUIPMENTS,
DOOR NO.18/2160 A, KOCHUPALLY ROAD,
THOPPUMPADY, KOCHI-682 005,
REPRESENTED BY ITS MANAGING PARTNER, K.A.RAJESH.**

**BY ADVS.SRI.S.SANTHOSH KUMAR
SMT.P.LISSY JOSE.**

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
OFFICE OF THE INTELLIGENCE OFFICER,
SQUAD NO.IV, MATTANCHERRY,
CAMP AT MINI CIVIL STATION, ALUVA, PIN-683 101**
- 2. THE COMMERCIAL TAX OFFICER, II CIRCLE,
DEPARTMENT OF COMMERCIAL TAXES,
MATTANCHERRY, PIN-682 002.**

BY GOVERNMENT PLEADER SRI. LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.26977/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REGISTRATION CERTIFICATE DATED 29/05/2013**
- P2 COPY OF THA ANNUAL RETURN FOR THE YEAR 2014-15**
- P3 COPY OF THE HIRE AGREEMENT DATED 3/9/2015**
- P4 COPY OF THE INVOICE DATED 9/2015**
- P5 COPY OF THE NOTICE DATED 03/09/2015 ISSUED BY THE 1ST RESPONDENT**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.26977 of 2015

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Dated this the 8th day of September, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P5 notice issued to him detaining a consignment of jacks, iron sheet and span that was being transported at the instance of the 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 for the petitioner and also the learned Government Pleader for the respondents.

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 of the respondents is with regard to the documents that accompanied the transportation of the goods. While the transportation was accompanied by an invoice, the consigner had declared the goods as transfer of the right to use the goods which indicated that it was a

deemed sale. The respondents, however, opined that there must be a delivery note in Form 15 that accompanied the transportation of the goods, and further, that the copy of the agreement under which transfer of right to use the goods was claimed by the petitioner, ought to have accompanied the transportation of the goods. Counsel for the petitioner would submit that, the statutory provisions do not mandate that the copy of the agreement or a delivery note should accompany the transportation of the goods in a case where the transaction is admittedly a sale transaction.

(ii) Taking note of the fact that the petitioner is a registered dealer in the State, I direct the 1st respondent to release the goods and the vehicle to the petitioner on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P5 detention notice.

(iii) The 1st 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.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

