

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

WP(C).No. 27173 of 2015 (V)

PETITIONER :

**KITEX CHILDRENSWEAR LTD.,
KIZHAKKAMBLAM,
REPRESENTED BY ITS AUTHORIZED SIGNATORY
MR.SOJAN CHACKO.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMT.G.MINI
SRI.P.S.SREE PRASAD**

RESPONDENT :

**INTELLIGENCE INSPECTOR,
SQUAD NO.III, DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM-682 016**

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

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

sts

WP(C).NO.27173/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE VAT CERTIFICATE OF REGISTRATION AND DETAILS OF GOODS FOR PURCHASES.**
- P2 COPY OF THE 8FA DECLARATION DATED 2/9/2015**
- P2A COPY OF THE INVOICES**
- P3 COPY OF THE NOTICE DATED 3/9/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.27173 of 2015

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Dated this the 9th day of September, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P3 notice issued to him detaining a consignment of slide fasteners 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 for the petitioner and also 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.P3, it is seen that the objection of the respondent is essentially with regard to the classification of the item for the purposes of tax liability. Counsel for the petitioner would submit that, the transportation of the goods was duly

covered by valid documents as indicated in the KVAT Act and the Form 8FA declaration indicated the goods to be slide fasteners as declared in the invoice.

(ii) It is also submitted that the petitioner is a registered dealer in the State. Taking note of the said submissions, I direct the respondent to release the goods and the vehicle on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P3.

(iii) 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.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

