

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. 27191 of 2015 (Y)

PETITIONER :

**SHAJAN C.T., AGED 49 YEARS, S/O.THOMAS,
PROPRIETOR, M/S SHAN TRADERS, MANNOOR,
KEEZHILLAM, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.C.A.NAVAS
SRI.T.K.SASIKUMAR
SMT.E.G.AMBILY
SRI.SHAJI SAMAD**

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.3, MATTANCHERRY, MINI CIVIL STATION,
ALUVA, ERNAKULAM DISTRICT-683 106**
- 2. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001**

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.27191/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE KVAT REGISTRATION CERTIFICATE NO.TIN/PIN 32151384876 DATED 20/01/2015.**
- P2 COPY OF THE NOTICE NO.OR 356/15-16 DATED 06/09/2015**
- P3 COPY OF THE MEASUREMENT SLIP DATED 04/09/2015 FOR EMPTY VEHICLE AND MEASUREMENT SLIP DATED 06/09/2015 FOR LOADED VEHICLE**
- P4 COPY OF THE SALE BILL NO.295 DATED 05/09/2015**
- P5 COPY OF THE MEASUREMENT SHEET DATED 05/09/2015**
- P6 COPY OF THE DEPARTMENTAL DELIVERY NO.321513/DN/23614/2015 DATED 05/09/2015**
- P7 COPY OF THE ADVANCE TAX UTILISATION RECEIPT DATED 05/09/2015**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.27191 OF 2015 (Y)

Dated this the 9th day of September, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P2 notice issued to him, detaining a consignment of plywood, 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 appearing for the petitioner and also the learned Government Pleader appearing 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.P2 notice, it is seen that that the objection of the respondents is essentially that

the transportation of the goods was not accompanied by any valid documents as stipulated under the KVAT Act. Counsel for the petitioner would submit that the electronic declaration in Form 8F was available in the KVATIS system, and he would also point out that the petitioner is a registered dealer within the State. On a consideration of the submissions of counsel for the petitioner, I find that this is a case where, the petitioner, being a registered dealer, did not comply with the conditions stipulated with regard to transportation documents under the KVAT Act. I note, however, that in Ext.P2 notice, what is demanded is an amount of Rs.87,000/- towards security deposit and a further amount of Rs.87,000/- towards penalty. I therefore direct the 1st respondent to release the goods and the vehicle subject to the petitioner paying 50% of the security deposit amount [Rs.87,000/-] in Ext.P2 detention notice, and furnishing a simple bond without sureties for the balance amount demanded therein, before the 1st respondent.

(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, untrammelled by the observations in 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

prp