

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

WP(C).No. 27283 of 2015 (I)

PETITIONER(S):

**M/S ASLAM MOHAMMED PROPERTIES PVT. LTD.,
KALPAKANCHERRY, MALAPPURAM,
REPRESENTED BY ITS AUTHORIZED SIGNATORY
MR.PRASANNA CHANDRA KARTHA.**

**BY ADVS.SRI.A.KUMAR
SMTG.MINI**

RESPONDENT(S):

- 1. INTELLIGENT OFFICER,
SQUAD NO.II, COMMERCIAL TAX,
MINI CIVIL STATION, TIRUR - 676 101.**
- 2. INTELLIGENCE INSPECTOR,
SQUAD NO.II, COMMERCIAL TAX,
MINI CIVIL STATION, TIRUR - 676 101.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAX CHECK POST,
WALAYAR - 678 624.**

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 27283 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE CERTIFICATE OF INCORPORATION.

**EXT.P2: TRUE COPY OF THE FORM 8F DECLARATION DTD.3.9.2015 FOR INVOICE
NO.150900099.**

**EXT.P3: TRUE COPY OF THE FORM 8F DECLARATION DTD.3.9.2015 FOR INVOICE
NO.150900100.**

**EXT.P4: TRUE COPY OF THE FORM 8F DECLARATION DTD.3.9.2015 FOR INVOICE
NO.150900101.**

EXT.P5: TRUE COPY OF THE NOTICE DTD.6.9.2015 FOR INVOICE NO.150900099.

EXT.P6: TRUE COPY OF THE NOTICE DTD.6.9.2015 FOR INVOICE NO.150900100.

EXT.P7: TRUE COPY OF THE NOTICE DTD.8.9.2015 FOR INVOICE NO.150900101.

EXT.P8: TRUE COPY OF THE CERTIFICATE DTD.29.6.2015.

EXT.P9: TRUE COPY OF THE JUDGMENT IN WPC.26253/2015 DTD.25.8.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.26283 of 2015

.....
Dated this the 10th day of September, 2015

JUDGMENT

The petitioner, is aggrieved by Exts.P5, P6 and P7 notices issued to him, detaining Excavator machines that were being transported at the instance of the petitioner for his own use. 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 Exts.P5, P6 and P7 detention notices, it is seen that the objection of the respondents is essentially that there is a possibility that the goods were brought in for commercial purposes. Possibility of misuse is what is stated as a reason for detaining the

goods. Counsel for the petitioner would submit that, the goods were duly accompanied by Form 8F, Form 16 and the tax invoice evidencing purchase of the goods and, inasmuch as the goods were brought for his own use, there was no justification for the detention of the goods in question. I find force in the contention of counsel for the petitioner that the goods, that were duly accompanied by by Form 8F, Form 16 and a tax invoice could not have been subjected to a detention. Accordingly, there will be a direction to the 2nd 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 Exts.P5, P6 and P7 detention notices, before the respondent.

(ii) The 2nd 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 2nd respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

