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. 27292 of 2015 (J)

PETITIONER :

RAJESH T. GEORGE,
PROPRIETOR, AIDAS, 29/1251,
SABAPATHI BUILDINGS, SHINE ROAD,
VYTTILA, KOCHI-682 019

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENT(S):

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1. INTELLIGENCE INSPECTOR,
   SQUAD NO.2, PATHANAMTHITTA TAXES,
   3RD FLOOR, REVENUE TOWER, THIRUVALLA,
   PATHANAMTHITTA DISTRICT.

2. THE ASSISTANT COMMISSIONER (W.C & L.T),
   O/O THE DEPUTY COMMISSIONER, COMMERCIAL TAXES,
   KOCHI-682 018.

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:

sts

WP(C).NO.27292/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1	COPY OF THE REGISTRATION CERTIFICATE
P2	COPY OF THE INVOICE DATED 07/09/2015
P2(A)	COPY OF THE INVOICE DATED 07/09/2015
P3	COPY OF THE NOTICE DATED 08/09/2015 ISSUED BY THE 1ST RESPONDENT
P4	COPY OF THE REPLY DATED 08/09/2015

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.27292 of 2015

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Dated this the 10th 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 Vinyl display and advertisement board 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 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.P3, it is seen that the objection of the respondents is essentially with regard to the rate of tax applicable on the product that was being transported. Whereas the petitioner had collected tax at the rate of 14.5%, it is the stand of the respondents that the rate of tax is 20%.

Counsel for the petitioner would submit that the goods are such as would attract only tax at the rate of 14.5%.

(ii) It is also submitted that the petitioner is a registered dealer in the State. Taking note of the said submission of counsel for the petitioner as also the fact that the issue is one relating to the rate of tax applicable and is a contentious one, I direct the 1st respondent to release the goods and the vehicle on the petitioner paying the differential tax amount of Rs.15,847/- by way of advance tax. The petitioner shall effect payment of the aforesaid amount and produce proof of remittance thereof before the 1st respondent for obtaining release of the vehicle and the goods.

(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/