

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C).No. 28142 of 2015 (P)

PETITIONER(S):

**SYMEGA FLAVOURS INDIA PRIVATE LIMITED,
39/2032, AJAYVIHAR, M.G. ROAD, ERNAKULAM,
KOCHI-682 035, REPRESENTED BY ITS
AUTHORISED SIGNATORY SRI.VINU. G.**

BY ADV. SRI.K.S.HARIHARAN NAIR.

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.1, MALAPPURAM, PIN-676 505.**
- 2. THE COMMERCIAL TAX OFFICER ON DUTY,
COMMERCIAL TAX CHECK POST,
WALAYAR, PALAKKAD DISTRICT-678 624.**

BY GOVT. PLEADER SRI.LIJU V.STEPHEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE CERTIFICATE OF REGISTRATION.
- EXT.P2 COPY OF THE SALES INVOICE NO.1073/15-16 DATED 09/09/2015
ALONG WITH ITS PURCHASE ORDER ISSUED BY THE CONSIGNEE.
- EXT.P2A COPY OF THE SALES INVOICE NO.1096/15-16 DATED 11/09/2015
ALONG WITH ITS PURCHASE ORDER ISSUED BY THE CONSIGNEE.
- EXT.P2B COPY OF THE SALES INVOICE NO.1081/15-16 DATED 09/09/2015.
- EXT.P3 COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT
DATED 12/09/2015.
- EXT.P4 REPLY NOTICE DATED 14/09/2015.
- EXT.P5 COPY OF THE CLARIFICATION ISSUED U/S.94 OF THE KVAT ACT.
- EXT.P6 COPY OF THE MONTHLY RETURN UNDER KVAT ACT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 28142 of 2015

Dated this the 16th day of September, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P3 notice issued to him detaining a consignment of Synthetic and Natural Flavours 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 appearing for the petitioner and also the learned Government Pleader appearing for the respondent.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:

- (i) On a perusal of Ext.P3 notice, it is seen that the objection of the respondent is essentially with regard to the rate of tax applicable to the product under the KVAT Act. The learned counsel for the petitioner would submit that the invoices that accompanied the

transportation clearly revealed it to be pursuant to an interstate sale against Form-C that was obtained from the purchaser, as also against Form-H, which was issued to substantiate the contention that the products were meant for exports. It is not in dispute that the goods were detained at the Check Post when it was enroute to a destination outside the State. Taking note of the said submission, and finding that the transportation of the goods was otherwise in order, and also taking into account the fact that the petitioner is a registered dealer, I direct the 2nd respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the notice, before the 2nd 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE