

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 28151 of 2015 (T)

PETITIONER(S):

**M/S.AIR CON INDIA SOUTH, VRINDAVAN,
NORTH RAILWAY STATION ROAD, KOCHI-18,
REPRESENTED BY ITS MANAGING PARTNER.**

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

RESPONDENT(S):

**INTELLIGENCE INSPECTOR, SQUAD NO.III,
OFFICE OF INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES (INTELLIGENCE),
ALAPPUZHA-688 001.**

BY GOVT. PLEADER SRI.LIJU V.STEPHEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE KVAT REGISTRATION CERTIFICATE.
- EXT.P2 COPY OF THE CONFIRMATION TERMS DATED 22/05/2015.
- EXT.P3 COPY OF THE INVOICE BEARING NO.290 DATED 14/09/2015.
- EXT.P4 COPY OF THE INVOICE BEARING NO.292 DATED 14/09/2015.
- EXT.P5 COPY OF THE DELIVERY NOTE WITH LIST OF MATERIALS.
- EXT.P6 COPY OF THE NOTICE DATED 15/09/2015.
- EXT.P7 COPY OF THE MONTHLY RETURN DATED 08/09/2015 FOR
RETURN PERIOD 01/08/2015-31/08/2015.
- EXT.P8 COPY OF THE QUARTERLY RETURNS TAX FOR THE RETURN
PERIOD 01/04/2015-30/06/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 28151 of 2015

Dated this the 17th day of September, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P6 notice issued to him detaining a consignment of Air Conditioners and parts, 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.P6 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the petitioner had split up the value of the contract by declaring part of the turnover under taxable sales and the other part towards

taxable works contract and issued separate invoices in respect of both the components. It is not in dispute that the transportation was accompanied by valid documents as prescribed under the KVAT Act and that the petitioner is a registered dealer in the State. Accordingly, 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 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 respondent.

(ii) 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.

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE