

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

WP(C).No. 28315 of 2015 (L)

PETITIONER(S):

**SHEJI PAUL, AGED 42 YEARS,
S/O.POULOSE, MANAGING PARTNER,
M/S.KINGS TRADERS, MANNOOR,
KEEZHILLAM P.O., ERNAKULAM DISTRICT.**

**BY ADVS.SRI.C.A.NAVAS,
SRI.T.K.SASIKUMAR,
SRI.P.A.SHAJI SAMAD,
SRI.C.J.SOLOMAN,
SRI.BABU JOSEPH PYNADATH.**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
WALAYAR, PALAKKAD DISTRICT-675 011.**
- 2. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

BY GOVT. PLEADER SRI.LIJU V.STEPHEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE KVAT REGISTRATION CERTIFICATE
NO.TIN/PIN32151398657 DATED 04/05/2015.
- EXT.P2 COPY OF THE NOTE NO.OR/227/A/15-16 DATED 16/09/2015.
- EXT.P3 COPY OF THE SALE BILL NO.48 DATED 15/09/2015.
- EXT.P4 COPY OF THE DEPARTMENTAL DELIVERY NOTE
NO.321513/DN/25127/2015 DATED 15/09/2015.
- EXT.P5 COPY OF THE ADVANCE TAX UTILISATION RECEIPT
DATED 15/09/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No.28315 of 2015
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Dated this the 18th day of September, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax 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 1st 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 1st 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.P2 notice, it is seen that the objection of the 1st respondent is essentially with regard to the fact that the goods that were declared to be plywood of 6mm and 8mm thickness in the documents that accompanied the transportation was found to vary with the actual commodity that was carried in the vehicle which was plywood of thickness

12mm and 10mm respectively. It was under the said circumstances that the 1st respondent suspected a possible evasion of tax. Counsel for the petitioner would submit that the mistake was not intentional and at any rate the petitioner is a registered dealer with the State. Taking note of the submission of the learned counsel for the petitioner as also objection of the 1st respondent in the detention notice, I direct the 1st respondent to release the goods and the vehicle covered by Ext.P2 detention notice, to the petitioner, on his remitting 30% of the security demanded in Ext.P2 notice and executing a simple bond without sureties for the security deposit amount demanded in the notice, before the 1st respondent.

(ii) 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.

(iii) 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