

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. 28525 of 2015 (M)

PETITIONER(S):

**ROJA DAVIS AGED 36 YEARS
W/O. DAVIS PAUL, CHIRAKKAL HOUSE
PONGANAMKADU, THRISSUR DISTRICT**

BY ADV. SRI.V.C.MADHAVANKUTTY

RESPONDENT(S):

- 1. INTELLIGENCE INSPECTOR, SQUAD NO.VI
DEPARTMENT OF COMMERCIAL TAXES,
THEVARA, ERNAKULAM - 682 015**
- 2. THE COMMISSIONER OF COMMERCIAL TAXES,
DEPARTMENT OF COMMERCIAL TAXES
TAX TOWERS, KILLIPPALAM, KARAMANA PO
THIRUVANANTHAPURAM - 695 001**

R BY GOVERNMENT 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:**

WP(C).No. 28525 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 18.03.2013
ISSUED BY MANAGER, DISTRICT INDUSTRIES CENTRE**
- EXT.P2 TRUE COPY OF THE LEASE AGREEMENT FOR THE ROOM TAKEN FOR
THE UNIT AT PONGANAMKAD DATED 10.12.2012**
- EXT.P3 TRUE COPY OF THE RENT AGREEMENT OF THAT PLACE DATED
11.09.2015 EXECUTED BETWEEN THE PETITIONER AND ONE BIJU
JOSEPH**
- EXT.P4 TRUE COPY OF THE CHARGE AND NOTICE ISSUED BY THE 1ST
RESPONDENT IN FORM, 17A**
- EXT.P5 TRUE COPY OF THE REPRESENTATION DATED NIL MADE BY THE
PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 28525 of 2015

Dated this the 18th day of September, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P4 notice issued to him detaining a consignment of Roaster Machines and heaters in dismantled condition, 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.P4 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the transportation of goods that were meant for own use of the petitioner was covered by a Form-16 declaration, in which the signature of the petitioner was seen as different from another signature of the petitioner in an agreement executed

between him and another person. It is also the case of the respondents that the petitioner did not comply with the statutory obligation of filing an on-line declaration in Form-16. Under the circumstances, the detention on the part of the respondents cannot be said to be unjustifiable. Taking into account the submissions of counsel for the petitioner that the mistake was a bona fide one and that the Form-16 declaration in manual form was already accompanying the transportation of the goods, I direct the 1st respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on the petitioner paying 30% of the security deposit amount demanded in Ext.P4 and furnishing a simple bond without sureties for the balance 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.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE