

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 28575 of 2015 (V)

PETITIONER :

**MOHAN KUMAR.R., AGED 55 YEARS,
SALES MANAGER(KERALA),M/S.SURYA KIRAN TEXTILES
SUGNOMAL MARKET, REVDI BAZAR, AHAMEDABAD
S/O. RAVINDRAN PILLAI, GANESH BHAVAN , KURUVIPUZHA
KAVANADU P.O, KOLLAM.**

**BY ADVS.SRI.T.V.GEORGE
SRI.JIMMY GEORGE (THADATHIL)**

RESPONDENTS :

- 1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
BANGRA, MANJESWHWAR - 671 323.**
- 2. STATE OF KERALA
REPRESENTED BY SECRETARY TO COMMERCIAL TAX
THIRUVANTHAPURAM - 695 001.**
- 3. M/S. AMAR JYOTHI SILK
KADAPPAKADA, KOLLAM 691 008**

R1 & R2 BY GOVERNMENT PLEADER SMT. LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: COPY OF THE RETAIL INVOICE RELATING TO THE SALE AND
TRANSPORTATION OF THE CONSIGNMENT FROM THE PETITIONER
TO THE 3RD RESPONDENT.**

**EXHIBIT P2: COPY OF THE U/S 47(2) OF KVAT ACT ISSUED BY THE 1ST
RESPONDENT DATED 8/8/14**

**EXHIBIT P3: COPY OF THE LETTER DATED 25/8/14 ISSUED BY THE 3RD
RESPONDENT TO THE 1ST RESPONDENT**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.28575 of 2015

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Dated this the 15th day of October, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P2 detention notice issued to him, detaining a consignment of cloth, that was being transported at the instance of the petitioner. In the writ petition, the petitioner is aggrieved by the insistence of the respondents 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.P2, it is seen that the objection of the respondents is essentially with regard to the identity of the goods that was being transported. While the petitioner declared the goods as cloth it was found on verification to be readymade goods. It is under these circumstances, Ext.P2 detention notice is issued. Counsel for the petitioner would submit that, the goods that were

consigned to the consignee were rejected by the consignee on the ground that, it did not match the description of the goods that had been indented by the consignee. Under the said circumstances, the petitioner as the consignor was left with no other remedy than to approach this Court since the respondents were not releasing the goods to the petitioner.

(ii) It is also submitted that, the petitioner is not a registered dealer in Kerala. Taking note of the said submission and finding the detention to be valid, I direct that if the petitioner or his authorised representative approaches the 1st respondent and pays the amount of security deposit demanded in Ext.P2 notice, then the 1st respondent shall release the goods to the petitioner.

(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

