IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

WP(C).NO. 28588 OF 2015 (W)

PETITIONER(S):

P.L.KABEER,
S/O.LATHEEF, AGED 52 YEARS, PROPRIETOR,
CITY TEXTILES, PALACE ROAD
NEAR APSARA THEATRE
ARAMANAPPALI, CHANGANASSERY

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S):

1.INTELIGENCE INSPECTOR
SQUAD NO.VII
COMMERCIAL TAXES, ERNAKULAM 682031

2.COMMERCIAL TAX OFFICER
SQUAD NO.VII
COMMERCIAL TAXES, ERNAKULAM 682031

3. STATE OF KERALA REPRESENTED BY SECRETARY TO GOVERNMENT
TAXES DEPARTMENT, GOVT.SECRETARIAT, TRIVANDRUM 695001

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 28588 OF 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE REGISTRATION CERTIFICATE

EXT.P2 :THE TRUE COPY OF THE NOTICE ISSUED DT.5.8.2015 BY THE 1ST RESPONDENT

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.28588 of 2015

....

Dated this the 22nd day of September, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P2 notice issued to him detaining a consignment of bed sheets 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 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 that the goods that were declared as handloom goods taxable at 1% were found to be bed sheets which are taxable at 5%. The respondents therefore suspected evasion

of tax. Counsel for the petitioner would submit that the goods are actually handloom goods which are taxable only at 1% and further the transportation was duly supported by an invoice dated 01.08.2015 which fact is not disputed by the respondents.

(ii) It is also submitted that the petitioner is a registered dealer in the State. Taking note of the said submissions, I direct the 1st respondent to release the goods and the vehicle to the petitioner on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P2.

(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 respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/