

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. 28657 of 2015 (F)

PETITIONER(S) :

UNIPOWER, TRANSFORMERS PVT. LTD.
VI/539/A &B, VALAYANCHIRANGARA-PERUMANBI ROAD
VALAYANCHIRANGARA P.O., PERUMBAVOOR
ERNAKULAM DISTRICT-683556
TIN NO.32050636762 C
REPRESENTED BY ITS GENERAL MANAGER

BY ADVS.SRI.K.JAJU BABU (SR.)
SMT.M.U.VIJAYALAKSHMI

RESPONDENT(S) :

1. THE INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES DEPARTMENT
SQUAD NO.3, MATTANCHERRY
MINI CIVIL STATION, ALUVA-683 101

2. THE ASSISTANT COMMISSIONER OF COMMERCIAL TAXES (SPECIAL CIRCLE)
DEPARTMENT OF COMMERCIAL TAXES
COMMERCIAL TAXES COMPLEX, NAGAMPADAM, KOTTAYAM-686001

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:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE PURCHASE ORDER NO.ESCO/PO/02/2015-16 DATED 25.04.2015 OF M/S ESCO PIPES PVT LTD, PALGHAT.

EXT.P2: TRUE COPY OF THE INVOICE NO.UTPL/VC/A 052 DATED 21.09.2015 OF THE PETITIONER COMPANY TO M/S ESCO PIPES PVT LTD,

EXT.P3: TRUE COPY OF THE NOTICE NO.OR.377/15-16 UNDER SECTION 47 (2) OF THE KERALA VALUE ADDED TAX ACT 2003 DATED 20.09.2015

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.28657 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.P3 notice issued to him detaining a consignment of transformer 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.P3, it is seen that the objection of the respondents is essentially that the invoice that accompanied the transportation was dated 21.09.2015 whereas the consignment covered by the invoice was detained on 20.09.2015. the

respondent therefore found that, the invoice is a post dated one and suspected a possible evasion of tax. Counsel for the petitioner would submit that the erroneous date shown in the invoice was a mistake and at any rate, the goods that were detained on 20.09.2015, matched the description in the invoice which was dated 21.09.2015.

(ii) It is also submitted that the petitioner is a registered dealer in the State and an assessee before the 2nd respondent. 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.3.

(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

mns/

