

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 28983 of 2015 (W)

PETITIONER :

**P. JAYA THOMAS
W/O. P.V. THOMAS, AGED 38 YEARS
RESIDING AT PULIKKOTTIL HOUSE
NUT STREET, VADAKARA, KOZHIKODE
(PROPRIETRIX, STAR PLASTICS, MAHE).**

BY ADV. SRI.R.RAMADAS

RESPONDENT :

**THE COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHECK POST
BANGARA MANJESHWARAM, KASARAGOD
PIN – 671 323.**

BY GOVT. PLEADER SRI. LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 28983 of 2015 (W)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE INVOICE NO. 68 DATED 10.9.2015.

EXT.P2 COPY OF THE TOKEN NO. 320000/2015-16/294753 DOWNLOADED
FROM THE SYSTEM.

EXT.P3 COPY OF THE NOTICE ISSUED U/S. 47(2) OF THE KVAT ACT DATED
13.9.2015 DEMANDING SECURITY DEPOSIT OF RS. 1,36,800/-

EXT.P4 COPY OF THE INVOICE NO. 69 DATED 12.9.2015.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.28983 of 2015
.....

Dated this the 28th 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 HM Polly material of assorted size 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 respondent.

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 respondent is essentially that there was a possibility of the petitioner transporting the material that was intended for transportation to Mahe, to places in Kerala. There is however, no material relied upon to support the said suspicion by the respondents.

(ii) Counsel for the petitioner would submit that, the petitioner is a registered dealer and the goods were in fact consigned to Mahe for use in Mahe for trading purposes. It is submitted that, there was no attempt at evasion of tax. Taking note of the said contentions of counsel for the petitioner, I direct the respondent to release the goods and the vehicle to the petitioner furnishing a simple bond without surety for the security deposit amounts demanded in Ext.P3.

(iii) The 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/

