IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

WP(C).No. 29114 of 2015 (L)

PETITIONER(S):

JOLLY PAPPACHAN
'PROPRIETOR'
KEERTHY MARKETING,
PERUMBAVOOR - 683 545

BY ADV. SRI.AJI V.DEV

RESPONDENT(S):
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1. **INTELLIGENCE INSPECTOR,**
   SQUAD NO.1, COMMERCIAL TAXES,
   ASRAMAM, KOLLAM - 691 002

2. **COMMERCIAL TAX OFFICER,**
   2ND CIRCLE, PERUMBAVOOR - 633 542

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 29114 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1	:	A TRUE COPY OF THE INVOICE NO.248/22-09-2015 ISSUED BY THE PETITIONER.
EXT.P1(a)	:	A TRUE COPY OF THE INVOICE NO.256/22-09-2015 ISSUED BY THE PETITIONER
EXT.P2	:	A TRUE COPY OF THE NOTICE DATED 22-09-2015 ISSUED U/S 47(2) OF THE KVAT ACT TO THE PETITIONER
EXT.P3	:	A TRUE COPY OF THE INVOICE NO.250/19-09-2015 ISSUED BY THE PETITIONER
EXT.P4	:	A TRUE COPY OF THE REPLY FILED BY THE PETITIONER DATED 23.09.2015

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

PA TO JUDGE

VS

ANIL K.NARENDRAN, J.

W.P.(C).No.29114 of 2015

Dated this the 25th day of September, 2015

JUDGMENT

The petitioner who is a registered dealer under the KVAT Act, has approached this Court in this writ petition seeking a writ of mandamus commanding the respondents to release the goods detained on the basis of Ext.P2 notice issued under Section 47(2) of the KVAT Act,2003 unconditionally. He has also sought for a writ of certiorari to quash Ext.P2 notice issued under Section 47(2) of the aforesaid Act.

2. I heard the arguments of the learned counsel for the petitioner and also the learned Government Pleader appearing for the respondents.

3. A reading of Ext.P2 notice issued under Section 47 (2) of the KVAT Act would show that the vehicle with goods was intercepted at Link Road, Kollam on 22.9.2015. On verification, the 1st respondent detected duplication of

bills. Therefore, suspecting a case of parallel billing for evasion of tax, the petitioner was issued with Ext.P2 notice under Section 47(2) of the KVAT Act, to show cause or to remit the security deposit in lieu of detention of Rs.60,000/- being double the amount of tax attempted to be evaded. On receipt of Ext.P2 show cause notice, the petitioner has submitted Ext.P4 reply. The materials on record prima facie indicate that, the petitioner is not entitled for release of goods unconditionally. On consideration of the facts and circumstances of the case, this writ petition is disposed of with the following directions.

(i) On the petitioner depositing 30% of the amount demanded in Ext.P2, the first respondent shall release the goods in question to the petitioner forthwith.

(ii) The first respondent shall thereafter transmit the files to the appropriate authority to 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 first respondent for compliance.

Sd/-
ANIL K.NARENDRAN
JUDGE

vs