

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C).No. 29204 of 2015 (A)

PETITIONER :

**K. SADHIKALI, AGED 54 YEARS,
PROPRIETOR, M/S. TYPICAL SUPPLIERS
PANNIKODE P.O., MUKKAM - 673602**

**BY ADVS.SRI.T.M.SREEDHARAN (SR.)
SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN**

RESPONDENTS :

- 1. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECKPOST, MUTHANGA
WAYANAD DISTRICT - 673614.**
- 2. THE ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, VTH CIRCLE,
KOZHIKODE - 673001.**
- 3. THE STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM - 695001.**

BY GOVERNMENT PLEADER SRI. LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE INVOICE NO. 1581 AND 23-9-2015 ISSUED BY THE PETITIONER.**
- P2: COPY OF THE DELIVERY NOTE IN FORM NO. 15 DT 23/9/2015 UNDER KVAT RULES.**
- P3: COPY OF THE DECLARATION IN FROM NO. 8F DT 23/9/2015 ISSUED BY THE COMMERCIAL TAXES DEPARTMENT.**
- P4: COPY OF DECLARATION IN FROM NO. IV DT 23/9/2015 ISSUED BY THE DIVISIONAL FOREST OFFICE.**
- P5: COPY OF PACKING LIST CONTAINING PARTICULARS OF SAWN SIZES OF TIMBER**
- P6: COPY OF THE NOTICE ISSUED BY THE R1 U/S. 47/(2) OF THE KVAT ACT, 2003 DT 24/9/2015.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.29204 of 2015

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Dated this the 29th day of September, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P6 notice issued to him detaining a consignment of teak timber 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.P6, it is seen that, the objection of the respondents is essentially that the sale price declared of the goods was very low compared to the prevailing market rate. There is no indication, however, in Ext.P6 notice as to what comparison prompted the respondents to indicate that the price declared was low compared with the prevailing market rate. Counsel for the petitioner

would submit that the transportation of the goods was covered by valid documents prescribed under the KVAT Act and the price shown in the invoice was the actual price realised for the commodity.

(ii) It is also submitted that the petitioner is a registered dealer in the State. Taking note of the said submission of counsel for the petitioner, 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.P6 detention notice.

(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/

