

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. 29239 of 2015 (D)

PETITIONER :

**M/S. METHODEX SYSTEMS PRIVATE LIMITED
36/2898, KALOOR, KADAVANTHRA ROAD,
NEAR KATHRIKADAVU CHURCH - 682017.
REPRESENTED BY IT'S REGIONAL HEAD
MR.V.S. SREEKANTH, AGED 42 YEARS**

BY ADV. SMT.K.LATHA

RESPONDENTS :

- 1. STATE OF KERALA REPRESENTED BY
CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM**
- 2. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAXES, COMMERCIAL TAX CHECK POST,
WALAYAR - 678101**

BY GOVERNMENT PLEADER SRI. LIJU V. SEPHEN

**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 F THE PURCHASE ORDER DT 3/8/2015 ISSUED BY THE STATE BANK OF TRAVANCORE, KOZHIKODE MAIN BRANCH OFFICE TO THE PETITIONER'S PITHAMPUR OFFICE.
- P2: COPY OF THE EXCISE INVOICE NO. PF/OP/16/0741 DT 7/8/2015 ISSUED BY THE PETITIONER'S PITHAMPUR OFFICE, MADHYAPRADESH TO THE STATE BANK OF TRAVANCORE, KOZHIKODE MAIN BRANCH.
- P3: OPY OF THE FORM NO. 8F DECLARATION DT 13-AUGUST 2015 DECLARING THE P2 INVOICE AND THE CORRESPONDING CERTIFICATE OF OWNERSHIP IN FORM NO. 16 DT 13/8/2015.
- P4: COPY OF THE DETENTION NOTICE NO. OR 2442/9/2015-16 DT 15/8/2015 ISSUED BY THE R2 U/S. 47(2) OF THE KVAT ACT TO THE PETITIONER.
- P5: COPY OF THE WRIT PETITION WPC NO. 26455/2015 DT 1ST DAY OF SEPTEMBER 2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.29239 of 2015

.....
Dated this the 29th day of September, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P4 notice issued to him detaining a consignment of furniture 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.P4, it is seen that, the objection of the respondents is essentially with regard to the documents that did not accompany the transportation of the goods in question. It is the stand of the respondents that the petitioner did not produce any documents to show that the transportation was for

the own use of the consignee. In the writ petition, the petitioner places reliance on Form 8F declaration that was submitted by the petitioner which clearly shows that the item in question was intended for the State Bank of Travancore, Calicut Branch. The petitioner also produces Ext.P3 Form No.16 which was given by the State Bank of Travancore, Calicut Branch, indicating that the item in question was for its own use. In view of the said document produced by the petitioner, I am of the view that there is no scope for any further detention of goods in question.

(ii) It is also not in dispute that the petitioner is a registered dealer in the State. Taking note of the said stand, I direct the 2nd 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.P4 detention notice.

(iii) The 2nd 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 2nd respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

