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. 29546 of 2015 (P)

PETITIONER :

ARUN JIMMY, PROPRIETOR,
M/S. CHOICE ASSOCIATES, X/31, THIRUMARADY.P.O.,
MUVATTUPUZHA-686 687, HAVING BRANCH AT STATE WAREHOUSE,
MOONNUMUKKU, ATTINGAL, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):
----

1. **COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAXES CHECK POST, AMARAVILA,
   THIRUVANANTHAPURAM-695 122

2. **COMMERCIAL TAX OFFICER, COMMERCIAL TAXES,**
   MINI CIVIL STATION, MUVATTUPUZHA-686 669,
   ERNAKULAM DISTRICT.

3. **COMMISSIONER OF COMMERCIAL TAXES,**
   TAX TOWERS, KARAMANA.P.O., THIRUVANANTHAPURAM-695 002

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:

sts

WP(C).NO.29546/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE REGISTRATION CERTIFICATE DATED 11/09/2015 ISSUED UNDER KVAT & CST ACTS BY 2ND RESPONDENT

P2 COPY OF THE LETTER DATED 25/07/2015 ISSUED BY 2ND RESPONDENT, TO THE JURISDICTION AUTHORITY, FOR THE BRANCH REGISTRATION AT ATTINGAL IN THIRUVANANTHAPURAM DISTRICT

P3 COPY OF THE INTERSTATE PURCHASER TAX INVOICE NO.30023649 DATED 25/09/2015 ISSUED UNDER THE CENTRAL EXCISE RULES BY M/S. BHAVYA CEMENTS LIMITED, HYDERABAD, AGAINST ISSUANCE OF 'C' FORM DECLARATION.

P4 COPY OF THE FORM NO.8F E-CONSIGNMENT DECLARATION NO.32151440441/2015-16/428685 DATED 27/09/2015, GENERATED BY PETITIONER AND MADE AVAILABLE TO THE DRIVER OF THE TRANSPORT VEHICLE FOR ACCOMPANYING WITH EXT P3 TAX INVOICE, FOR THE TRANSPORT OF CEMENT TO THE BRANCH OF AT ATTINGAL

P5 COPY OF THE NOTICE NO.OR.674/15-16 DATED 27/09/2015 ISSUED TO PETITIONER, THROUGH THE DRIVER OF TRANSPORT VEHICLE, U/S. 47(2) OF KVAT ACT, BY 1ST RESPONDENT, DEMANDING SECURITY DEPOSIT.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.29546 of 2015

....

Dated this the 29th day of September, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Ext.P5 notice issued to him detaining a consignment of cement 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.P5, it is seen that, the objection of the respondents is essentially that the petitioner did not have a valid CST registration that permitted by the petitioner to deal in cement. Counsel for the petitioner would refer to Ext.P1 certificate of registration were the commodity 'Cement' is included with effect rom 26.02.2014.

(ii) It is also submitted that petitioner is also a registered dealer in the State under the Kerala Value Added Tax Act and the CST Act. Taking note of the said submission and finding that, the transportation was otherwise covered by a valid invoice, 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.P5 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/