

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. 29573 of 2015 (V)

PETITIONER(S) :

**M/S. NEPTUNE READY MIX CONCRETE (P) LIMITED,
PLOT NO.VI/58 & 59, INDUSTRIAL DEVELOPMENT AREA,
EDYAR, KOCHI, REPRESENTED BY ITS POWER OF
ATTORNEY HOLDER, SHYAM.S.NAIR.**

BY ADV. SRI.JOSE JACOB

RESPONDENT(S) :

**COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECKPOST,
WALAYAR- 678 624.**

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:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: COPY OF THE TEMPORARY PERMIT DATED 03.09.2015.

EXHIBIT P2: COPY OF THE CHALLANS DATED 03.09.2015.

EXHIBIT P3: COPY OF THE INVOICES DATED 25.09.2015.

**EXHIBIT P4: COPY OF THE RC BOOK ON WHICH IN PASS WAS SEALED
DATED 26.09.2015.**

EXHIBIT P5: COPY OF FORM 8F DATED 26.09.2015.

EXHIBIT P6: COPY OF FORM 16 DATED 26.09.2015.

EXHIBIT P7: COPY OF DECLARATION DATED 26.09.2015.

EXHIBIT P8: COPY OF THE NOTICE DATED 26.09.2015.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 29573 of 2015
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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.P8 notice issued to him detaining a heavy goods vehicle carrying a concrete mixer, 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 appearing for the petitioner and also the learned Government Pleader appearing for the respondent.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:

- (i) On a perusal of Ext.P8 notice, it is seen that the objection of the respondent is essentially that the goods in question was being transported without an ownership certificate in Form-16. Counsel for the petitioner would submit that the transportation was duly accompanied by an 8F declaration, that was

generated in the KVATIS Website on the same day of the detention and a Form-16 declaration was also submitted to the respondents on the same day, although subsequent to the detention. It is also the contention of the petitioner that he is a registered dealer within the State and that the vehicle was taken to Coimbatore for repairs and was being brought back without any ready-mix concrete in it and therefore, there is no attempt of evasion of tax. Taking note of the said submission of counsel for the petitioner, but finding that the concrete mixer itself was being brought without a Form-16 and certificate of ownership as mandated under the KVAT Act, I direct the respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on the petitioner paying Rs.50,000/- (Rupees fifty thousand only) before the respondent and furnishing a simple bond without sureties for the balance security deposit amount demanded in the notice, before the respondent.

(ii) 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE