IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C).No. 29627 of 2015 (C)

PETITIONER :

NAUFAL AHAMMED
MANAGING DIRECTOR
M/S. CARTREE ACCESSORIES PRIVATE LIMITED
KBS SAFA PLAZA, 33/2363-AL
GEETHANJALI JUNCTION, 33
VYTTILA, ERNAKULAM DISTRICT.

BY ADVS.SRI.V.A.NAVAS
SRI.P.T.GIRISH
SRI.SANEESH KUNJUKUNJU

RESPONDENT :

THE COMMERCIAL TAX INSPECTOR
THE COMMERCIAL TAXES DEPARTMENT
WALAYAR – 678 624.

BY GOVT. PLEADER SRI. LIJU V. STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...2/-

WP(C).No. 29627 of 2015 (C)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF REGISTRATION CERTIFICATE.

EXT.P2 COPY OF INVOICE BEARING NOS. HT/15-16/1578.

EXT.P3 COPY OF INVOICE BEARING NOS. HT/15-16/1595.

EXT.P4 COPY OF TRANSACTION ID – 320713/PA01/68453/2015.

EXT.P5 COPY OF TRANSACTION ID 320713/PA01/68854/2015.

EXT.P6 NOTICE ISSUED BY THE COMMERCIAL TAX INSPECTOR, WALAYAR.

EXT.P7 EXPLANATION GIVEN BY THE PETITIONER.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.29627 of 2015

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Dated this the 5th day of October, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Ext.P6 notice issued to him detaining a consignment of car accessories 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 respondent.

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 respondent is essentially that the petitioner had not tendered any document to show that the transportation of the goods were pursuant to a sale in transit as declared by him. The respondents therefore suspected an evasion of tax.

Counsel for the petitioner would submit that the transportation of the goods was duly covered by valid invoice as required under the Kerala Value Added Tax Act, and that, the subsequent movement of the goods was to premises which housed the branch of the petitioner.

(ii) it is also noted that, the petitioner did not have a valid registration at the time when the transportation of the goods took place. Under such circumstances, I direct the respondent to release the goods and the vehicle to the petitioner on the petitioner paying an amount of Rs.1,45,000/- by way of advance tax in respect of the consignment. The petitioner shall effect payment of the said amount as advance tax and produce proof of remittance of the same before the respondent for obtaining release of the goods and the vehicle.

(iii) 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.

(iv) 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

mns