IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 29710 of 2015 (K)
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PETITIONER(S) :

M/S.KRISHNA AGENCIES,
30/1596A, NARAYANAN ASAN ROAD, VYTTILA,
ERNAKULAM-19,
REPRESENTED BY MANAGING PARTNER.

BY ADVS.SRI.ANIL D. NAIR
SRI.R.SREEJITH
SMT.ROSIE ATHULYA JOSEPH
SMT.O.A.NURIYA
SMT.SOUMYA PRAKASH
SMT.MEKHALA BENNY

RESPONDENT(S) :
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1. **THE INTELLIGENCE INSPECTOR,**
   COMMERCIAL TAXES, WALAYAR CHECK POST-678 001.

2. **ASSISTANT COMMISSIONER (ASSESSMENT),**
   SPECIAL CIRCLE-II, ERNAKULAM- 682 015.

BY GOVERNMENT PLEADER SRI.LIJU.V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 29710 of 2015 (K)
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APPENDIX

PETITIONER(S)' EXHIBITS :
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EXHIBIT P1: **TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER.**

EXHIBIT P2: **TRUE COPY OF THE INVOICE NO.1037/ DATED 20.09.2015.**

EXHIBIT P3: **TRUE COPY OF THE FORM NO.8F DECLARATION DATED 23.09.2015**

EXHIBIT P4: **TRUE COPY OF THE NOTICE ISSUED BY FIRST RESPONDENT.**

EXHIBIT P5: **TRUE COPY OF THE LETTER DATED 25.09.2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**

EXHIBIT P6: **TRUE COPY OF THE CLARIFICATION ORDER NO.C3/35119/14/CT DATED 23.04.2015.**

EXHIBIT P7: **TRUE COPY OF THE RETURN IN FORM NO.10 DATED 22.09.2015.**

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.29710 of 2015

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Dated this the 30th day of September, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Ext.P4 notice issued to him detaining a consignment of PVC flex sheeting in rolls 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 classification of the product for the purposes of tax under the Kerala Value Added Tax Act. While the respondent maintains that, the goods are taxable at 20%, the petitioner had

declared the goods as taxable at 5%.

(ii) It is not in dispute, however, that transportation of the goods was covered by the documents prescribed under the Kerala Value Added Tax Act and that the petitioner is a registered dealer in the state. I therefore 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.P4 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/