

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. 29778 of 2015 (V)

PETITIONER(S):

**M/S. TRINITY GLOBAL,
BUILDING NO.33/773A, VENNALA, VYTTILA,
ERNAKULAM-682028.**

BY ADV. SRI.V.DEVANANDA NARASIMHAM

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR (INVESTIGATION BRANCH),
COMMERCIAL TAXES, MINI CIVIL STATION,
ALAPPUZHA-688011.**
- 2. THE COMMERCIAL TAX OFFICER,
KVAT CIRCLE-II, COMMERCIAL TAXES,
ALAPPUZHA-688001.**
- 3. M/S. R.S. ELECTRONICS,
GREENS BUILDING, PERUNNA, CHANGANASERRY-686102.**

R1 & 2 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:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF PURCHASE ORDER DATED 28/9/15 ISSUED BY R3 TO THE PETITIONER**
- P2: COPY OF TAX INVOICE DTD.29/9/15 ISSUED BY PETITIONER TO THE R3**
- P3: COPY OF THE FORM NO.17A NOTICE DATED 29/9/15 ISSUED BY R1 IN THE NAME OF R3.**

RESPONDENTS' EXHIBIT

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 29778 of 2015

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.P3 notice issued to him detaining a consignment of Washing Machines and Refrigerators 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.P3 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the consignee of the goods had not filed a monthly return for the month of August, 2015. Counsel for the petitioner would submit that the

notice has been served on the consignee of the goods whereas the custody of the goods was with the consignor and the transportation was at the instance of the consignor, who is the petitioner. It is stated that the transportation was accompanied by all the valid documents as contemplated under the KVAT Act and the petitioner is also a registered dealer within the State. Taking note of the said submission, and finding that the transportation of the goods was otherwise in order, I direct the 1st respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the notice, before the 1st respondent.

(ii) 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE