

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. 30109 of 2015 (K)

PETITIONER:

**SOUTHERN ISPAT AND ENERGY (PVT) LTD.,
KOTTAYI, PALAKKAD - 678 572,
REPRESENTED BY ITS MANAGING DIRECTOR
VIVEK AGARWAL, S/O.K.K.AGARWAL, AGED 40 YEARS.**

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NUMBER I, COMMERCIAL TAXES,
PALAKKAD, PIN - 678 001.**
- 2. THE ASSISTANT COMMISSIONER (ASSESSMENT)
SPECIAL CIRCLE, COMMERCIAL TAX OFFICE,
PALAKKAD, PIN - 678 001.**

BY GOVERNMENT 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:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : A TRUE COPY OF THE INVOICE DATED 1ST OCTOBER 2015 ISSUED BY
 THE PETITIONER.
- EXT. P2 : A TRUE COPY OF THE DELIVERY NOTE IN RESPECT OF THE GOODS
 COVERED BY EXHIBIT P1.
- EXT. P3 : A TRUE COPY OF THE NOTICE DATED 1ST OCTOBER 2015 ISSUED BY
 THE 1ST RESPONDENT.
- EXT. P4 : A TRUE COPY OF THE RECEIPT DATED 1ST OCTOBER 2015 ISSUED BY
 SURESH AUTO ELECTRICALS.
- EXT. P5 : A TRUE COPY OF THE EXPLANATION DATED 1ST OCTOBER 2015
 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT IN
 RESPONSE TO EXHIBIT P3.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.30109 of 2015

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Dated this the 5th day of October, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P3 notice issued to him detaining a consignment of MS ingots 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.P3 detention notice, it is seen that, the objection of the respondents is essentially that the documents that accompanied the goods showed the despatch time as 6.09 am and the detention was at 10.50 hours on the same day. The respondent therefore suspected multiple

transportation using the same set of documents. Counsel for the petitioner submits that, it was on account of a mechanical problem that the vehicle could not cover the distance in the stipulated time. It is also submitted that the transportation was duly accompanied by valid documents prescribed under the KVAT Act.

(ii) The petitioner is also a registered dealer in the State. Taking note of the said submission, 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.P3.

(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/

