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. 30110 of 2015 (K)

PETITIONER(S) :

CRYSTAL PRINTING MATERIALS,
BUILDING NO.XIX/73, UZHUVATHUKADAVU,
P.O.PULLUT, TRICHUR DISTRICT,
REPRESENTED BY MUNEER P.A.

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

RESPONDENT(S) :

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1. **THE COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAXES CHECK POST, WALAYAR- 678 001.

2. **COMMERCIAL TAX OFFICER,**
   VAT CIRCLE, KODUNGALLUR- 680 664.

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:

Msd.

WP(C).No. 30110 of 2015 (K)
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APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER.

EXHIBIT P2: TRUE COPIES OF THE INVOICE NOS.171501086, 171501087, 171501088 DATED 20.09.2015.

EXHIBIT P3: TRUE COPY OF THE NOTICE ISSUED BY FIRST RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE E-CHALAN ISSUED BY THE COMMERCIAL TAXES DEPARTMENT.

EXHIBIT P5: TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.29923/2015 DATED 01.10.2015.

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.30110 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 PVC flex sheets 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 with regard to the classification of the item in that the respondents allege that the goods are taxable at 20% whereas the petitioner had declared the same as taxable at 5%. Counsel for the petitioner would submit that the transportation of the goods was duly covered by valid documents as contemplated under the KVAT Act and the petitioner is a registered dealer in the State. Taking note of the said submission, and finding that the transportation of the goods was otherwise in order, and also taking into account the fact that the petitioner is a registered dealer, 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 surety 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.

(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/