

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. 30136 of 2015 (N)

PETITIONER :

**BIBI NINAN SAMUEL, AGED 40 YEARS,
S/O. DR. SAMUEL NINAN, CHAKKITTAYIL HOUSE,
VADAVATHOOR P.O., KOTTAYAM DISTRICT - 686010**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR**

RESPONDENTS :

- 1. INTELLIGENCE INSPECTOR, SQUAD NO. I,
COMMERCIAL TAXES, KALPETTA, WAYANAND DISTRICT-673121.**
- 2. COMMERCIAL TAX INSPECTOR, COMMERCIAL TAX CHECK POST,
VADUVANCHAL, WAYANAD DISTRICT - 673123.**

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:**

bp

WP(C).No. 30136 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF CERTIFICATE OF TITLE.

P2: COPY OF DEMAND DRAFT DT 2/9/2015 FOR RS.34,82,446/- ISSUED BY THE
FEDERAL BANK, AYARKUNNAM, KOTTAYAM.

P3: COPY OF NOTICE DT 1/10/2015 ISSUED BY THE R1.

RESPONDENT'S EXHIBITS : NIL.

//TREU COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 30136 of 2015

Dated this the 5th day of October, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P3 notice issued to him detaining a consignment of Travel Trailer Caravan 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 petitioner did not have any registration under the KVAT Act or Luxury Tax Act. Counsel for the petitioner would submit that the travel trailer caravan is being brought for the purposes of commencing a business in letting out trailer caravans within the State. It is admitted that

the petitioner did not have any registration under the KVAT Act or Luxury Tax Act. It is also not in dispute that there was no Form-16, ownership certificate, that was submitted so as to prove the ownership of the goods. Taking note of the said fact, I direct the 2nd respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on the petitioner furnishing a bank guarantee for the security deposit amount demanded in the notice, before the 2nd respondent.

(ii) The 2nd 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 2nd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE