

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. 30143 of 2015 (P)

PETITIONER:

**M/S.PKL LIMITED, VATTAKKERI ROAD,
ARoor - 688 534, ALAPPUZHA,
BRANCH AT THRISSUR,
REPRESENTED BY ITS AUTHORIZED SIGNATORY
T.JYOTHISH.**

BY ADV. SRI.V.DEVANANDA NARASIMHAM

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.II, COMMERCIAL TAXES,
MINI CIVIL STATION, TIRUR - 676 101.**
- 2. THE ASSISTANT COMMISSIONER (KVAT),
SPECIAL CIRCLE, COMMERCIAL TAXES,
CIVIL STATION, ALAPPUZHA - 688 001.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

**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 : TRUE COPY OF FORM 10 RETURN DATED 14.9.15 ALONG WITH
PURCHASE AND SALES REGISTERS FILED BY PETITIONER BEFORE
2ND RESPONDENT.
- EXT. P2 : TRUE COPY OF THE TAX INVOICES DATED 30.9.15 GENERATED BY
PETITIONER IN SAP SYSTEM OF ACCOUNTING.
- EXT. P3 : TRUE COPY OF THE LETTER STATING REPLACEMENT ALONG WITH
REQUEST OF THE CONSIGNEE DEALER AND PREVIOUS SALE
INVOICES.
- EXT. P4 : TRUE COPY OF THE NOTICE DATED 3.10.15 ISSUED U/S.47(2) OF THE
KAVAT ACT BY 1ST RESPONDENT TO THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 30143 of 2015

Dated this the 5th day of October, 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 Hob Glass Stoves 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.P4 notice, it is seen that the objection of the respondent is essentially with regard to the fact that there were six items that were seen in excess, when compared to the declaration and the invoice that accompanied the transportation of the goods. Counsel for the petitioner would submit that the additional six items, that were

detected, were in fact, items that were supplied to dealers pursuant to return of goods from the said dealers and in replacement thereof. The petitioner would rely on Exts.P3 slips that accompanied the transportation, to show that the said excess item were actually replacement items, which were covered by earlier invoices issued to the dealers. It is also submitted that 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 sureties for the security deposit amount demanded in the notice, before the 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