

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

WP(C).No. 30225 of 2015 (C)

PETITIONER(S):

**SRI.RAEESUDEEN A.T.,
M/S.A.T.FLOORS, THIRURKKAD,
MALAPPURAM.**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SMT.K.P.RANI
SRI.P.UNNIKRISHNAN (THRISSUR)**

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.V, DEPARTMENT COMMERCIAL TAXES,
MALAPPURAM AT NILAMBUR - 679 329.**
- 2. THE INTELLIGENCE OFFICER, SQUAD NO.V,
DEPARTMENT COMMERCIAL TAXES,
MALAPPURAM AT NILAMBUR - 673 329.**
- 3. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAX CHECK POST, VAZHIKADAVU,
DEPARTMENT COMMERCIAL TAXES,
MALAPPURAM DISTRICT - 676 505.**
- 4. THE COMMERCIAL TAX OFFICER,
DEPARTMENT COMMERCIAL TAXES,
PERINTHALMANNA - 679 322.**

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 30225 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE REGISTRATION CERTIFICATE UNDER KERALA VALUE
ADDED TAX ACT TIN NO.32100775683 DTD.24.7.2015.**

**EXT.P2 & P2A: TRUE COPIES OF THE RC BOOKS OF BOTH VEHICLES OWNED BY
THE PETITIONER ISSUED BY THE AUTHORITY BEARING NUMBERS
A 7068958 DTD.22.11.2014 AND A 9150293 DTD.31.8.2015.**

**EXT.P3: TRUE COPY OF THE INVOICE NO.754 DTD.28.9.2015 AN AMOUNT OF
RS.1,85,684/- ISSUED BY THE CONSIGNEE TO THE PETITIONER.**

**EXT.P4: TRUE COPY OF THE INVOICE NO.2561 DTD.28.9.2015 AN AMOUNT OF
RS.2,07,548/- ISSUED BY THE CONSIGNEE TO THE PETITIONER.**

**EXT.P5: TRUE COPIES OF THE 8F DECLARATIONS NOS.32100775683/2015-16/454399
DTD.29.9.2015 AND 32100775683/2015-16/467508 DTD.30.9.2015 SUBMITTED
BY THE PETITIONER BEFORE THE 3RD RESPONDENT.**

**EXT.P6: TRUE COPY OF THE NOTICE NO.VC 449/2015-16 DTD.29.9.2015 ISSUED BY
THE 1ST RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.30225 of 2015

.....
Dated this the 6th day of October, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P6 notice issued to him detaining a consignment of granite slabs 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.P6 detention notice, it is seen that, the objection of the respondents is essentially with regard to the documents that accompanied the transportation. It was found that, the invoice was only a xerox copy, and further, the vehicle number shown in the invoice

did not match with the number of the vehicle that transported the consignment. There is also a dispute with regard to the actual quantity of goods contained in the vehicle. Counsel for the petitioner would submit that the wrong vehicle number shown in the invoice was a mistake and that the advance tax in respect of the consignment has already been remitted by the petitioner. The petitioner is also a registered dealer in the State.

(ii) Taking note of the said submission, I direct the 1st respondent to release the goods and the vehicle to the petitioner on the petitioner paying 30% of the security deposit amount demanded in Ext.P6 notice and furnishing a simple bond without surety for the balance amounts demanded therein before the 1st respondent.

(iii) The 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 respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

