IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

WP(C).No. 30777 of 2015 (V)

PETITIONER :

M/S.SKY BLUE INTERIORS,
NJAVALUMKAD, THIRUVENGAPURA,
PATTAMBI, PALAKKAD, REPRESENTED BY ITS PROPRIETOR
HISHAM.K.P., S/O.MUHAMMAD, KUNNUMPURATH HOUSE,
THIRUVENGAPURA.P.O., PATTAMBI, PALAKKAD.

BY ADVS.SRI.B.MOHANLAL
SMT.P.S.PREETHA

RESPONDENT(S):
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1. THE INTELLIGENCE INSPECTOR,
   SQUAD NO.6, NEDUMANGAD.P.O., COMMERCIAL TAXES,
   GOVERNMENT OF KERALA, THIRUVANANTHAPURAM, PIN-695 541

2. THE COMMERCIAL TAX OFFICER, PATTAMBI,
   PALAKKAD, PIN-679 303

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.30777/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE INVOICE NO.92 DATED 3/10/2015 ISSUED BY THE PETITIONER TO THE CONSIGNEE.

P2 COPY OF THE ORDER O.R.NO.186/15-16 DATED 04/10/2015 ISSUED BY THE 1ST RESPONDENT UNDER SECTION 47(2) OF THE KERALA VALUE ADDED TAX ACT 2003.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.30777 of 2015

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Dated this the 9th day of October, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Ext.P2 notice issued to him detaining a consignment of furniture 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.P2 detention notice, it is seen that, while the invoice that accompanied the transportation of the goods showed the goods as consigned to Kannanalloor, Kollam, the vehicle was found at a distance of 30 k.m from Kannanalloor at a place called Kallambalam. The respondents suspected possible evasion of tax.

Counsel for the petitioner would submit that when the vehicle reached Kannanalloor, it was found that the premises was closed, and therefore, on instructions from the petitioner the goods were send to a go-down of the consignee at Kallambalam.

(ii) The petitioner is a registered dealer in the State and the transportation of the goods was otherwise in compliance with the provisions of the Kerala Value Added Tax Act. Taking note of the said fact, I direct the 1st respondent to release the goods and vehicle to the petitioner on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P2.

(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/