

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 30990 of 2015 (W)

PETITIONER(S):

**1. CHACKO.P.T,
S/O.THOMAS, PUTHENKALAPURAYIL HOUSE,
KUMARANELLOOR P.O., WADAKKANACHERY,
TRICHUR - 680 590.**

**2.SULAIMAN,
S/O.BAPUTTY, POOVATHUNKAL HOUSE,
MANALITHARA P.O., WADAKKANACHERY - 680 589.**

**3.PRATHEESH K.A.
KALAPPURAKKAL HOUSE,
CHETTIKKADU, KUNDUKADU P.O.,
TRICHUR - 680 028.**

**BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.R.JAIKRISHNA**

RESPONDENT(S):

**1.INTELLIGENCE OFFICER-I,
DEPARTMENT OF COMMERCIAL TAXES,
TRICHUR - 680 001.**

**2.INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
TRICHUR - 680 001.**

**3.RANGE FOREST OFFICER,
PATIKAD, TRICHUR - 680 652.**

R BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE TRANSIT PASS ISSUED BY THE FOREST DEPARTMENT.

EXT.P2: COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT UNDER SECTION 47(2) OF THE KVAT ACT.

EXT.P2(A): COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT UNDER SECTION 69(1) OF THE KVAT ACT.

EXT.P3: COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT UNDER SECTION 47(2) OF THE KVAT ACT.

EXT.P3(A): COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT UNDER SECTION 69(1) OF THE KVAT ACT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.30990 OF 2015 (W)

Dated this the 13th day of October, 2015

J U D G M E N T

The petitioners are aggrieved by Exts.P2, P2(a), P3 and P3(a) notices issued to them, detaining a consignment of teak logs together with the vehicles in which they were transported. While Exts.P2 and P2(a) notices relate to the goods that were being transported, Exts.P3 and P3(a) notices pertain to the vehicles using which were used for transportation. In the writ petition, the petitioners are aggrieved by the insistence of the respondents that the petitioners must pay the security deposit demanded in the detention notices as a condition for release of the goods and the vehicles.

2. I have heard the learned counsel for the petitioners 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 Exts.P2, P2(a), P3 and P3(a) detention notices, it is seen that the objection of the respondents is essentially that the goods in question were being transported without any valid documents. It is therefore that the respondents enhanced the value of the goods that were being transported and insisted on payment of security deposit for release of the goods and the vehicles. Counsel for the petitioners would submit that although it is the fact that there was no documents that accompanied the transportation, the petitioners had submitted the necessary declaration before the Forest Department in respect of the consignment of teak logs that was being transported. In the declaration filed before the Forest Department, and pursuant to which the teak logs were being transported, it is seen that the total volume of the goods that was being transported was 11.744 cubic metres. This is seen corroborated by the entries in the notices issued to the petitioners, where also, there is no difference noticed in the quantity that was being transported by the petitioners. Counsel for the petitioners would submit that the petitioners were transporting the said logs for their own use, although there is no Form 16 declaration produced before the authorities. Taking note of the said submission of counsel for the petitioners and finding that the transportation of the goods was not accompanied by any documents, I deem it necessary to direct the petitioners to remit an amount of Rs.1,09,620/- [Rupees One lakh nine thousand six hundred and

twenty only] which would represent the tax due on the consignment, if found to be payable. Accordingly, I direct the 1st respondent to release the goods and the vehicles covered by Exts.P2, P2(a), P3 and P3(a) notices, on condition that the petitioners remit an amount of Rs.1,09,620/- before the 1st respondent, and furnish a simple bond without sureties before the said respondent, for the balance amount demanded in Exts.P2, P2(a), P3 and P3(a) notices.

(ii) The 1st respondent shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders, after hearing the petitioners, within two months from the date of receipt of a copy of this judgment.

(iii) The petitioners shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/13/10/15