

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 31465 of 2015 (G)

PETITIONER(S):

**PULIMOOTTIL SILKS,
PULIMOOTTIL ROY ROGERS TOWER,
MUVATTUPUZHA ROAD, THODUPUZHA,
(REPRESENTED BY THE PARTNER SRI.ROJER JOHN).**

**BY ADVS.SRI.K.N.SREEKUMARAN
SRI.P.D.UNNIKKANNAN NAIR
SMT.V.P.SEENA DEVI**

RESPONDENT(S) :

- 1. INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, INTELLIGENCE SQUAD NO.VII,
THEVARA, ERNAKULAM.**
- 2. INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, INTELLIGENCE SQUAD NO.II,
MINI CIVIL STATION, THODUPUZHA, PIN- 685 584.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE RETURN FOR THE MONTH OF AUGUST 2015
FILED BEFORE THE ASSISTANT COMMISSIONER SPECIAL CIRCLE
THODUPUZHA.

EXHIBIT P2: TRUE COPIES OF INVOICES NOS.SCL/003341/14-15, SCL/003342/14-
15, SCL/003343/14-15 AND SCL/003344/14-15 DATED 28.10.2014 OF
M/S.CHITRAKAR APPARELS, KOLKATTA.

EXHIBIT P3: TRUE COPY OF THE INVOICE NO.4651 DATED 22.010.2014 OF
M/S.CREATIONS P.LTD., JAIPUR.

EXHIBIT P4: TRUE COPY OF THE NOTICE IN FORM 17A BEARIN NO.393/2014-15
DATED 08.11.2014 ISSUED BY THE RESPONDENT.

EXHIBIT P5: TRUE PHOTOGRAPH OF THE SAMPLE OF THE CLOTH MATERIALS
UNDER DETENTION.

EXHIBIT P6: TRUE COPIES INVOICE NO.SCL/002671/15-16, SCL/002672/2015-16
DATED 07.08.2015 OF M/S.CHITRAKAR APPARELS, KOLKATTA.

EXHIBIT P7: TRUE COPY OF THE NOTICE IN FORM 17A BEARING
NO.OR 284/2015-16 DATED 18.08.2015 ISSUED BY
THE 2ND RESPONDENT.

EXHIBIT P8: TRUE COPY OF THE REPLY DATED 22.09.2015 FILED BEFORE
THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31465 OF 2015 (G)

Dated this the 15th day of October, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P4 notice issued to him, detaining a consignment of unstitched clothing, that was being transported at the instance of the petitioner. In the writ petition, the petitioner is aggrieved by the insistence of the respondents 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 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.P4 notice, it is seen that the objection of the respondents is essentially with

regard to the classification of the goods under transport. Counsel for the petitioner would submit that the item that is transported is unstitched clothing material and he has produced as Ext.P5 photograph showing the material that has been transported. I take note of the fact that the petitioner is a registered dealer within the State, and that the transportation of the goods was duly accompanied by valid documents as prescribed under the KVAT Act. I, therefore, direct the respondents to release the goods and the vehicle subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P4 notice, before the respondents.

(ii) The respondents 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, untrammelled by the observations in this judgment.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE