IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 31572 of 2015 (V)

PETITIONER(S):

POOJA TRADERS, 19/544,
E.M.SQUARE, N.H.BYE PASS,
ALUVA, ERNAKULAM, PIN - 683 105,
REPRESENTED BY ITS MANAGING PARTNER
SRI.S.K.SUNILKUMAR.

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENT(S):
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1. **COMMERCIAL TAX INSPECTOR,**
COMMERCIAL TAX CHECK POST,
WALAYAR, PALAKKAD DISTRICT,
PIN - 678 624.

2. **THE COMMERCIAL TAX OFFICER,**
DEPARTMENT OF COMMERCIAL TAXES,
ALUVA, PIN - 683 101.

BY GOVERNMENT PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 31572 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: COPY OF KVAT REGISTRATION CERTIFICATE ISSUED BY THE 2ND RESPONDENT.

EXT.P2: COPY OF THE PURCHASE INVOICE DTD.21.9.2015.

EXT.P3: COPY OF THE TRANSACTION SLIP DTD.22.9.2015 UP-LOADED IN THE OFFICIAL WEB-SITE OF THE DEPT. OF COMMERCIAL TAXES.

EXT.P4: COPY OF THE NOTICE DTD.3.10.2015 ISSUED BY THE 1ST RESPONDENT.

EXT.P5: COPY OF THE MONTHLY RETURN FOR THE MONTH OF JULY 2015 DTD.20.8.2015.

EXT.P5(a): COPY OF THE MONTHLY RETURN FOR THE MONTH OF AUGUST 2015 DTD.19.9.2015.

EXT.P5(b): COPY OF THE ANNUAL RETURN FOR THE YEAR 2014-15DTD.30.5.2015.

EXT.P6: COPY OF THE REPLY DTD.9.10.2015 FILED BY THE PETITIONER.

EXT.P7: COPY OF THE SPECIMEN OF THE DETAILS OF ITEM TRANSPORTED.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 31572 of 2015
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Dated this the 16th 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 Kitchenware 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, it is seen that the objection of the respondent is essentially with regard to the fact that the goods under transportation, which were declared as non-taxable items by the petitioner, were actually wooden kitchenware, which attracted tax at the rate of 14.5%. Counsel for the petitioner would submit that the goods under

transport were actually baskets made of Bamboo, which would qualify for nil rate of tax. I find that the petitioner is a registered dealer in the State and that the transportation of the goods was otherwise covered by the valid documents as contemplated under the KVAT Act. Under such circumstances, 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 1st 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

das /16.10.15