

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. 31674 of 2015 (H)

PETITIONER :

**BEARDSSELL LIMITED.,
XL/6484, T.D. ROAD, ERNAKULAM,
REPRESENTED BY MR. P.VENUGOPAL,
MANAGER (ACCOUNTS).**

BY ADV. SRI.VIJAYAN. K.U.

RESPONDENT(S):

- 1. INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, SQUAD NO.II,
MATTANCHERY AT KARUKUTTY, PIN-683 574**
- 2. ASSISTANT COMMISSIONER (ASSESSMENT)
SPECIAL CIRCLE-II, COMMERCIAL TAXES,
ERNAKULAM-682 015**

BY GOVERNMENT PLEADER SMT. LILLY.KT.

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

sts

WP(C).NO.31674/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE RELEVANT PORTION OF THE RETURN FILED FOR THE PREVIOUS YEAR 2014-15**
- P2 COPY OF THE INVOICE NO.1955 DATED 15/10/2015 ISSUED BY THE PETITIONER COMPANY**
- P3 COPY OF THE NOTICE NO.OR 310/2015-16 DATED 15/10/2015 ISSUED BY THE 1ST RESPONDENT**
- P4 COPY OF THE INVOICE NO.9919803020 DATED 10/09/2015 ISSUED BY M/S SIEMENS TO THE PETITIONER-COMPANY**
- P5 COPY OF THE EXPLANATIONS DATED 16/10/2015 SUBMITTED TO THE 1ST RESPONDENT**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.31674 of 2015

.....
Dated this the 16th day of October, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P3 notice issued to him detaining a consignment of electrical motors 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.P3 detention notice, it is seen that, the objection of the respondents is essentially that the sale price indicated in the invoice that accompanied the transportation showed it to be substantially lower than the MRP value of the product excluding tax. The respondents therefore suspected an undervaluation of the goods at the hands of the

petitioner. Counsel for the petitioner would submit that for detaining the goods, the issue of undervaluation is irrelevant and the undervaluation can at best be a ground for suspecting the sale price in an assessment proceedings before the assessing authority.

(ii) I take note of the fact that, the petitioner is a registered dealer and the transportation of the goods was duly accompanied by valid documents as contemplated under the KVAT Act. Under the said circumstances, I direct the 1st respondent to release the goods and the vehicle to the petitioner on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P3.

(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/

