

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

WP(C).No. 32031 of 2015 (D)

PETITIONER :

**M/S.T.V. SUNDRAM IYENGAR & SONS PVT.LTD.,
T.C. 55/1377T 1342, N.. NEERAMANKARA
KAIMANAM P.O., THIRUVANANTHAPURAM
REPRESENTED BY ITS' AUTHORISED SIGNATORY
MR.G. SRINIVASA RAGHAVAN**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD**

RESPONDENT :

**INTELLIGENCE INSPECTOR, SQUAD NO.1,
COMMERCIAL TAXES, ALAPPUZHA
OFFICE OF THE INSPECTING ASSISTANT COMMISSION
(INTELLIGENCE COMMERCIAL TAXES, ALAPPUZHA - 688001**

BY GOVERNMENT PLEADER SMT. LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE INVOICE DT 29/9/2015.
- P2: COPY OF FORM 19 DT 7/10/2015.
- P2(a): COPY OF FORM 17 DT 2/4/2012.
- P3: COPY OF THE DELIVERY NOTE BEARING NO. 16515 DT 7/10/2015.
- P4: COPY OF THE SAID DELIVERY NOTE DT 4/10/2015.
- P5: COPY OF THE NOTICE DT 8/10/2015.
- P6: MONTHLY RETURNS FILED FOR THE MONTH OF AUGUST 2015 DT 15/9/2015.
- P7: COPY OF THE SAID DELIVERY NOTE FOR THE PRESENT TRANSACTION.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 32031 of 2015

Dated this the 20th day of October, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P5 notice issued to him detaining a consignment of new vehicles 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.P5 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the goods that were being transported on the strength of departmental delivery note did not correspond with the Chassis Number

and Engine Number that were shown in the departmental delivery note. Counsel for the petitioner submits that the goods were also accompanied by a delivery note that was issued by the consignor, which shows the correct chassis number and engine number. It is further submitted that there was an invoice that accompanied the transportation of the goods, but the said invoice not seen referred to in the detention notice. The petitioner is also stated to be a registered dealer within the State. Taking note of the said submission, but finding the detention to be justified, I direct the respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on the petitioner paying the security deposit amount demanded in Ext.P5 by way of advance tax. The petitioner shall remit the amount by way of advance tax and produce proof of such remittance before the respondent for obtaining a release of the goods and the vehicle.

(ii) The 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 respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE