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. 32070 of 2015 (G)

PETITIONER :

SRI. N.T.JACOB
PROPRIETOR, M/S. ZAAL COMMERCIAL INC.,
ST. ANTONY'S BUILDING, 32/3037-B
ST. RITO'S SCHOOL ROAD
PONNURUNNY, KOCHI – 682 019.

BY ADVS.SRI.ANIL D.NAIR
SRI.R.SREEJITH
SMT.ROSIE ATHULYA JOSEPH
SMT.O.A.NURIYA
KUM.SOUMYA PRAKASH
KUM.MEKHALA M.BENNY

RESPONDENT(S) :

----

1. THE COMMISSIONER TAX OFFICER
KVAT CIRCLE – II, KALAMASSERY – 683 101.

2. THE COMMERCIAL TAX INSPECTOR
COMMERCIAL TAXES, WALAYAR CHECK POST – 678 001.

R1 & R2 BY GOVT. 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:

Mn

WP(C).No. 32070 of 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1	**:**	**COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER.**
EXT.P2		**COPY OF THE INVOICE NO. 028119 DATED 11.9.2015.**
EXT.P3		**COPY OF THE TRANSACTION SLIP.**
EXT.P4		**COPY OF THE NOTICE DATED 19.9.2015 ISSUED BY THE 2ND RESPONDENT.**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.
==
W.P.(C). No. 32070 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.P4 notice issued to him detaining a consignment of toys 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 notice, it is seen that the objection of the respondent is essentially with regard to the classification of the item that was being transported, and the rate of tax due in respect of the item. While the petitioner claimed that the goods

would attract tax only at 5%, it is the stand of the respondents that the goods would attract tax at 14.5%. Counsel for the petitioner would submit that the petitioner is a registered dealer in the State and the transportation of the goods was duly accompanied by valid documents as contemplated under the KVAT Act. Taking note of the said submission, I direct the 2nd 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 2nd respondent.

(ii) The 2nd 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 2nd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /20.10.15