

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. 32087 of 2015 (I)

PETITIONER :

**SAFIYA ABDULMAJEED,
M/S. MANNANTHARA GRANITES,
VII/325C, KAVILKADAVU, KODUNGALLUR-680 664**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SRI.P.UNNIKRISHNAN (THRISSUR)**

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.VIII, THEVARA, ERNAKULAM-682 011**
- 2. THE INTELLIGENCE OFFICER, SQUAD NO.III,
THEVARA, ERNAKULAM-682 011**
- 3. THE COMMERCIAL TAX OFFICER, VAT CIRCLE,
KODUNGALLUR-680 664**

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:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE TIN CERTIFICATE BEARING NO.32081014776C DATED 08/11/2012 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**
- P2 COPY OF THE INVOICE NO.4284 DATED 19/10/2015 ISSUED BY THE PETITIONER TO THE BUYER.**
- P3 COPY OF THE TIN CERTIFICATE BEARING NO.32072054703 DATED 07/08/2012 ISSUED BY THE COMMERCIAL TAX OFFICER (WC), OFFICE OF THE DEPUTY COMMISSIONER, COMMERCIAL TAXES ERNAKULAM TO THE BUYER.**
- P4 COPY OF THE NOTICE ISSUED IN FORM NO.17A NO.OR NO.III/751/15-16 DATED 19/10/2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.**
- P5 COPY OF THE SMS SENT BY THE BUYER STATING TIN.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 32087 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 Tiles 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 fact that there were certain discrepancies noticed in the documents that accompanied the transportation of the goods. The defects noticed

include, inter alia, that a bill in Form 8-B was issued to the registered dealer, whereas the said format of the bill was required to be issued only to end customers. On account of the discrepancies noticed, it was felt that there was an attempt at evasion of tax. Counsel for the petitioner would submit that the petitioner is a registered dealer in the State and the discrepancies noticed are purely technical in nature and there was no intention to evade tax. He admits that the bill in Form 8-B was wrongly issued and that he ought not be penalised for the said technical omission. Taking note of the said submission, and also taking into account the fact that the petitioner is a registered dealer, 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