

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. 32094 of 2015 (J)

PETITIONER:

**KRISHNA SASIDHARAN, PROPRIETRESS,
"KRISH", CC.34/193-A, GROUND FLOOR, 34,
EDAPPALLY.P.O., PIN - 682 024.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR**

RESPONDENT(S):

- 1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
BANGRA MANJESWARAM,
KASARAGOD DISTRICT, PIN - 673 621.**
- 2. COMMERCIAL TAX OFFICER, 2ND CIRCLE,
KALAMASSERY AT CIVIL STATION, KAKKANAD,
ERNAKULAM, KOCHI - 682 030.**

BY GOVERNMENT PLEADER SMT.LILLYK.T.

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

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : COPY OF REGISTRATION CERTIFICATE.
- EXT. P2 : COPY OF CONSENT LETTER DATED 16.9.2015.
- EXT. P3 : COPY OF INVOICE DATED 12.10.2015 ISSUED BY M/S.D'DECOR HOME FABRICS PVT.LTD., ANDHERI, MUMBAI.
- EXT. P4 : COPY OF DECLARATION DATED 13.10.2015 IN FORM 8F.
- EXT. P5 : COPY OF APPLICATION DATED 17.10.2015 FOR CERTIFICATE OF OWNERSHIP IN FORM 16.
- EXT. P6 : COPY OF NOTICE DATED 17.10.2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 32094 of 2015

Dated this the 20th day of October, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P6 notice issued to him detaining a consignment of flooring 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.P6 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the petitioner, who was a consignee of the goods, was not authorised to trade in the commodity and further, no Form-16 was seen accompanying consignment. Only an application for Form-16 was seen accompanying the goods.

Counsel for the petitioner would submit that by virtue of a circular, the procedure for obtaining Form-16 certificate has been changed and now a person requiring a Form-16 certificate is required to submit an application online and only after verification is conducted by the appropriate authority, will a Form-16 certificate be issued. In the instant case, the copy of the application that was submitted was made available along with the transportation of the goods. It is submitted that the item in question was required for the own use of the petitioner and he is not a dealer in the product. Taking note of the said submission, 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 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