

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937Q

WP(C).No. 32446 of 2015 (E)

PETITIONER :

**M/S MOUNTAIN VALLEY SPRING INDIA P LTD,
G-20, LULU MALL SHOP, EDAPPALLY POST,
ERNAKULAM, PIN-682 024, REPRESENTED BY ITS MANAGER,
MR.SURENDRA RAWATH.**

BY ADV. SMT.K.LATHA

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, SECRETARIATE,
THIRUVANANTHAPURAM-695 001**
- 2. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, MUTHANGA-678 103**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, KAKKANAD, ERNAKULAM-682 030**

BY GOVERNMENT PLEADER SMT. LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE AGREEMENT OF RENT DATED 09 JUNE 2015 ENTERED BY THE PETITIONER COMPANY WITH LULU INTERNATIONAL SHOPPING MALL PRIVATE LIMITED**
- P2 COPY OF THE FORM NO.8F DATED 20TH OCTOBER 2015 ISSUED BY THE PETITIONER COMPANY**
- P2(A) COPY OF THE FORM NO.16 DATED 20TH OCTOBER 2015 ISSUED BY THE PETITIONER COMPANY**
- P3 COPY OF THE DETENTION NOTICE OR NO.1294/2015-16 DATED 25/10/2015 ISSUED BY THE SECOND RESPONDENT U/S 47(2) OF THE KVAT ACT TO THE PETITIONER.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 32446 of 2015

Dated this the 26th day of October, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P3 notice issued to him detaining a consignment of electrical goods and furniture, 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.P3 notice, it is seen that the objection of the respondent is essentially that while the goods were accompanied by a valid invoice and has also an 8F declaration, the Form-16 certificate that was furnished by the petitioner did not carry the

signature of the authorised officer as per Circular No.3/2015. Counsel for the petitioner submits that although the on-line declaration in Form-16 was uploaded on the KVATIS website and the goods were accompanied by the valid invoice as also an 8F declaration, the petitioner could not obtain a Form-16 duly signed by the authorised person. It is pointed out that the goods in question were required for furnishing the shop room, that was to be set up by the petitioner in a shopping complex. Taking note of the said submission, and finding that the transportation of the goods was otherwise in order, 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

W.P.(C). No. 32446 of 2015