

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WP(C).No. 32671 of 2015 (H)

PETITIONER:

**SOUTHERN ISPAT AND ENERGY (PVT) LTD.,
KOTTAYI, PALAKKAD - 678 572,
REPRESENTED BY ITS MANAGING DIRECTOR,
VIVEK AGARWAL, S/O.K.K.AGARWAL, AGED 40 YEARS**

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NUMBER I, COMMERCIAL TAXES,
PALAKKAD, PIN - 678 001.**
- 2. THE ASSISTANT COMMISSIONER(ASSESSMENT),
SPECIAL CIRCLE, COMMER TAX OFFICE,
PALAKKAD, PIN - 678 001.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : A TRUE COPY OF THE INVOICE DATED 14, OCTOBER 2015 ISSUED BY
THE PETITIONER.
- EXT. P2 : A TRUE COPY OF THE DELIVERY NOTE IN RESPECT OF THE GOODS
COVERED BY EXHIBIT P1.
- EXT. P3 : A TRUE COPY OF THE INVOICE DATED OCTOBER 19, 2015 ISSUED BY
THE PETITIONER.
- EXT. P4 : A TRUE COPY OF THE DELIVERY NOTE IN RESPECT OF THE GOODS
COVERED BY EXHIBIT P3.
- EXT. P5 : A TRUE COPY OF THE LETTER DATED OCTOBER 21, 2015 SENT BY
LAL STEELS PRIVATE LIMITED TO THE PETITIONER.
- EXT. P6 : A TRUE COPY OF THE NOTICE DATED OCTOBER 25, 2015 ISSUED BY
THE 1ST RESPONDENT.
- EXT. P7 : A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT
DATED 25.10.2015.
- EXT. P8 : A TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER TO
EXHIBIT P6 AND P7 DATED 25.1.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 32671 of 2015

Dated this the 27th day of October, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P6 notice issued to him detaining a consignment of MS Ingots, that was being loaded in a vehicle at the yard of the original consignee of goods, 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 goods that were found loaded in the vehicle detained at the yard of the original consignee of goods were not accompanied by a

delivery note that was to accompany the transportation of the goods to the premises of the petitioner to whom the goods were returned by the consignee. Counsel for the petitioner would submit that the transportation of the goods, that were rejected by the consignee, had not commenced yet and that the consignee was in the process of loading the goods in the vehicle when the respondent authority detained the vehicle. It is also stated that it was only after the loading of the rejected goods was completed, that the consignee could have made the necessary endorsement on the delivery note that accompanied the onward transportation of the goods to the consignee's premises, and insofar as the loading was not complete, the documents were also not generated. The petitioner is also a registered dealer in the State. Taking note of the said submissions, 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

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judgment and a copy of the writ petition before the
1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /27.10.15