

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

WP(C).No. 32829 of 2015 (C)

PETITIONER:

**PRIME METALS, 29/621, JAIN TOWER,
VYTTILA, KOCHI - 682 019,
REPRESENTED BY ITS MANAGING PARTNER,
SRI.MAHENDRA KUMAR JAIN.**

**BY ADVS.SRI.R.MOHANDAS
SRI.R.KISHORE KUMAR (MATTANCHERRY)
SRI.MANOJ KUMAR.M**

RESPONDENT(S):

**INTELLIGENCE INSPECTOR, SQUAD NO.III,
O/O.INSPECTING ASSISTANT COMMISSIONER(INT.),
COMMERCIAL TAXES, KOZHIKODE - 673 006.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF THE ADVANCE TAX TOKEN BEARING
NO.32070296024/2015-16/783552 DATED 23.10.2015.
- EXT. P2 : TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT
DATED 26.10.2015 BEARING VCRIII/561/2015-16.
- EXT. P3 : TRUE COPY OF THE ONLINE DELIVERY NOTE BEARING
NO.320702/DN/130334/2015 DATED 26.10.2015.
- EXT. P4 : TRUE COPY OF THE INVOICE OF THE PETITIONER BEARING NO.VY A
1062 DATED 26.10.2015.
- EXT. P5 : TRUE COPY OF THE EXPLANATION LETTER OF THE PETITIONER
DATED 26.10.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No. 32829 of 2015

Dated this the 29th day of October 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P2 notice issued to him detaining a consignment of M.S.Angles and Channels, 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 for the petitioner and also the learned Government Pleader 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.P2 detention notice, it is seen that the objection of the respondent is essentially that the goods at the time of interception were found not to be in possession

of any document to support the onward transportation of the goods to the premises at Calicut. Counsel for the petitioner would submit that the goods were originally consigned from Goa to Vytilla and it was enroute that the petitioner decided to consign the goods to the premises in Calicut. It is stated that the delivery note to support the diverted transaction was generated in the KVATIS Website only at the commencement of office hours and it was only two minutes after the detention of the goods by the respondent. It is also stated that the petitioner is a registered dealer within the State and that the consignment ought not to have been detained for a mere technical lapse. It is further pointed out that the advance tax in respect of the consignment was already paid by the petitioner at the time of bringing the goods into the State of Kerala. I am of the view that inasmuch as there were no documents to support the subsequent transportation of the goods, after it entered into the State of Kerala, to Calicut, which is a destination different from what was originally shown in the transportation document, the detention on the part of the respondent cannot be said to be unjustified. Accordingly, I direct the respondent to release the goods and the vehicle to the petitioner on the petitioner paying 30% of the security deposit amount in Ext.P2 and furnishing a simple bond without sureties for balance amount

demanded in Ext.P2 before the respondent.

(ii) The 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 respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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