

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. 32865 of 2015 (G)

PETITIONER(S):

**RAJESH KHAITAN, M/S.SHREE BABA STEELS,
CHITTUR MAIN ROAD, VALARA, NATTUKAL,
PALAKKAD DISTRICT.**

**BY ADVS.SRI.HARISANKAR V. MENON,
SMT.MEERA V.MENON.**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
CHITTUR-678 101.**
- 2. INTELLIGENCE INSPECTOR, SQUAD NO.II,
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD-678 001.**

BY GOVT. 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:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE INVOICE NO.1835 ISSUED BY M/S. KANKANI STEELS & FERRO ALLOYS, KANJIKODE TO THE PETITIONER DATED 27/10/2015.
- EXT.P2 COPY OF THE INVOICE NO.217 ISSUED BY THE PETITIONER TO A DEALER AT IRIMPANAM DATED 27/10/2015.
- EXT.P2A COPY OF THE INVOICE NO.218 ISSUED BY THE PETITIONER TO A DEALER AT IRIMPANAM DATED 27/10/2015.
- EXT.P3 COPY OF THE NOTICE IN FORM NO.17A ISSUED BY THE 2ND RESPONDENT DATED 27/10/2015.
- EXT.P4 COPY OF THE LOCATION SKETCH SHOWING THE BUSINESS PLACES OF THE PETITIONER AND KANKANI STEELS.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 32865 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.P3 notice issued to him detaining a consignment of TMT bars 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 with regard to the fact that the goods were not declared before the Commercial Tax Check post either at Athikode or Valara. Counsel for the petitioner would submit that

the goods in question were transported through yet another route and it is under those circumstances, that the driver of the vehicle did not stop the vehicle at any of the Check posts either in Athikode or Valara. It is also submitted that the petitioner is a registered dealer in the State. On a consideration of the facts and circumstances, and taking note of the facts that the goods were not declared at any of the Commercial Tax Check Posts, the detention of goods at the instance of the respondents cannot be said to be unjustified. I take note of the fact, however, that the petitioner is a registered dealer and direct the 2nd respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on the petitioner paying 30% of the security deposit amount demanded in Ext.P3 notice and furnishing a simple bond without sureties for the balance 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE