

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. 32927 of 2015 (M)

PETITIONER(S):

**MUNEER C.H.,
PROPRIETOR, FRANK AND MATES,
40/1184, 40/1184-A & B,
ANZAZ ARCADE, OPPOSITE KALYAN SILKS,
KOCHI - 11 (NOW AT DOOR NO.41/1507 A6, A8, A9, A10,
CIVIL LANE ROAD, PADIVATTOM,
ERNAKULAM - 682 024)**

**BY ADVS.SRI.S.SANTHOSH KUMAR
SMT.P.LISSY JOSE.**

RESPONDENT(S):

**1. THE INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, SQUAD NO.I,
EDAPPALLY, ERNAKULAM - 682 024.**

**2.THE COMMERCIAL TAX OFFICER,
KVAT,CIRCLE-IV,
ERNAKULAM - 682 013.**

R 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:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF CERTIFICATE OF REGISTRATION DATED 25/11/2010.

EXT.P2: COPY OF REGISTRATION DETAILS OF THE PETITIONER.

EXT.P3: COPY OF STOCK TRANSFER INVOICE DATED 5/10/2015.

EXT.P4: COPY OF TRANSACTION SLIP DATED 14/10/2015.

EXT.P5: COPY OF THE NOTICE NO.OR1/554/15-16 DATED 25/10/2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32927 OF 2015 (M)

Dated this the 29th day of October, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P5 notice issued to him, detaining a consignment of ready made garments, that was being transported at the instance of the petitioner. In the writ petition, the petitioner is aggrieved by the insistence of the respondents 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 respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P5 notice, it is seen that the objection of the respondents is essentially that the goods that were transported from Mandia were not declared in any of the border check posts in Kerala. It was also found that the vehicle was plying in a different direction than the place of destination shown in the invoice. The respondents therefore suspected a possible evasion of tax. Learned counsel for the petitioner would submit that the discrepancy noted was occasioned only on account of the fact that the goods had arrived during the period of holidays in the State of Kerala, and therefore, there was a reason for taking a different route to the destination. It is also pointed out that the petitioner is a registered dealer within the State. Taking note of the submission of counsel for the petitioner but finding that the transporter did not declare the goods at any of the border check posts, I direct the 1st respondent to release the goods and the vehicle subject to the petitioner paying 30% of the security deposit amount demanded in Ext.P5 and furnishing a simple bond without sureties for balance amount demanded therein, 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, untrammelled by the

observations in this judgment.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/29/10/15