

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. 33001 of 2015 (A)

PETITIONER(S):

**M/S.STAR ENTERPRISES, XIX/515,
MARKET ROAD, ALUVA-683 101,
REPRESENTED BY ITS MANAGING PARTNER
K.A. JOHNY.**

**BY ADVS.SRI.K.J.ABRAHAM,
SRI.NIKHIL JOHN.**

RESPONDENT(S):

**THE INTELLIGENCE INSPECTOR, SQUAD NO.III,
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM.**

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 REGISTRATION CERTIFICATE NO.70132
DATED 17/04/2008.
- EXT.P2 COPY OF THE FORM 15 DELIVERY NOTE NO.3607782
DATED 28/10/2015.
- EXT.P2A COPY OF THE FORM 15 DELIVERY NOTE NO.3607783
DATED 28/10/2015.
- EXT.P3 COPY OF THE NOTICE NO.OR III/779/15-16 DATED 28/10/2015.
- EXT.P4 COPY OF THE INVOICE NO.2970 DATED 28/10/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.33001 of 2015
.....

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 Kerala Value Added Tax Act is aggrieved by Ext.P3 notice issued to him detaining a consignment of cement 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 and the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P3 detention notice, it is seen that the objection of the respondent is essentially that in the delivery note that accompanied the transportation of the goods the time was not shown, and further, there was no sale invoice that accompanied the transportation of the goods. The respondent therefore, suspected multiple

transportation using the same documents. Counsel for the petitioner would submit that in the delivery note that was uploaded in the KVATIS website, there was a clear reference to the invoice number and date pertaining to the sale transaction. The said invoices have also been produced along with the writ petition. It is also submitted that the petitioner is a registered dealer in the State.

(ii) Taking note of the said submission, I direct the respondent to release the goods and the vehicle to the petitioner, on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P3 detention notice.

(iii) 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.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

