IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 33051 of 2015 (F)

PETITIONER(S) :

SAJU JOSEPH,
PAINUTHARA ELECTRICAL AGENCIES, NO.56/999,
OLD NO.27/2650, A-1, VIDHYA NAGAR ROAD,
NEAR METHAR FLAT, KADAVANTHRA, ERNAKULAM, PIN- 682 020.

BY ADV. SRI.R.MURALIDHARAN (AROOR)

RESPONDENT(S) :
----

1. THE ASSISTANT COMMISSIONER,
KVAT SPECIAL CIRCLE-III, DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM, PIN- 682 015.

2. THE INTELLIGENCE INSPECTOR,
SQUAD NO.1, OFFICER OF THE INSPECTING ASSISTANT
COMMISSIONER (INTELLIGENCE), DEPARTMENT OF COMMERCIAL
TAXES, ALAPPUZHA, CAMP AT VAYALAR, PIN- 688 001.

BY GOVERNMENT PLEADER SMT.K.T.LILLY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 33051 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1:	**TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED UNDER KVAT ACT, DATED 04.06.2007.**
EXT.P2:	**TRUE COPY OF THE TAX INVOICE NO.4233 DATED 15.10.2015 ACCOMPANIED WITH THE CONSIGNMENT.**
EXT.P2(A):	**TRUE COPY OF THE TAX INVOICE NO.4235 DATED 15.10.2015 ACCOMPANIED WITH THE CONSIGNMENT.**
EXT.P2(B):	**TRUE COPY OF THE TAX INVOICE NO.4254 DATED 16.10.2015 ACCOMPANIED WITH THE CONSIGNMENT.**
EXT.P2(C):	**TRUE COPY OF THE TAX INVOICE NO.4322 DATED 17.10.2015 ACCOMPANIED WITH THE CONSIGNMENT.**
EXT.P2(D):	**TRUE COPY OF THE TAX INVOICE NO.4312 DATED 17.10.2015 ACCOMPANIED WITH THE CONSIGNMENT.**
EXT.P2(E):	**TRUE COPY OF THE TAX INVOICE NO.4320 DATED 17.10.2015 ACCOMPANIED WITH THE CONSIGNMENT.**
EXT.P2(F):	**TRUE COPY OF THE TAX INVOICE NO.4342 DATED 17.10.2015 ACCOMPANIED WITH THE CONSIGNMENT.**
EXT.P2(G):	**TRUE COPY OF THE TAX INVOICE NO.4352 DATED 17.10.2015 ACCOMPANIED WITH THE CONSIGNMENT.**
EXT.P3:	**TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT UNDER SECTION 47(2) DATED 20.10.2015.**
EXT.P4:	**TRUE COPY OF THE DETAILED EXPLANATION AND REQUEST MADE BY THE PETITIONER DATED 20.10.2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33051 OF 2015 (F)

Dated this the 30th day of October, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act and CST Act, is aggrieved by Ext.P3 notice issued to him, detaining a consignment of electrical goods, 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.P3 notice, it is seen that the objection of the respondents is essentially that the invoices that accompanied the transportation of the goods bore an endorsement that showed that the goods were delivered on 21.10.2015 and 22.10.2015, whereas the detention itself was on 20.10.2015. The respondents therefore suspected that there were multiple transaction using the same set of documents. Counsel for the petitioner would submit that the seal showing delivered date was put by the employees of the consignor, and at any rate, there was no dispute that there was no goods that was being transported in the vehicle. It is also submitted that the petitioner is a registered dealer within the State. Taking note of the said submission of counsel for the petitioner, but finding that there was a discrepancy in the documents that accompanied the transportation of the goods, I direct the 2nd respondent to release the goods and the vehicle on the petitioner producing proof of payment of the tax amount due in respect of the goods that were transported, by way of advance tax. The petitioner shall pay the tax amount due on the consignment, by way of advance tax, and produce proof of such remittance before the 2nd respondent for obtaining release of the goods and the vehicle.

(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, 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 2nd respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/30/10/15