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. 33062 of 2015 (G)

PETITIONER :

A.V.TRADERS,
ROOM NO.X/183, P.O.PAZHUVIL,
THRISSUR, PIN-680 564,
REPRESENTED BY ITS PROPRIETOR, SRI.A.V.JOB.

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR

RESPONDENT(S):

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1. INTELLIGENCE INSPECTOR,
   SQUAD NO.IV, COMMERCIAL TAXES,
   MATTANCHERRY AT MINI CIVIL STATION,
   ALUVA, PALAKKAD DISTRICT

2. COMMERCIAL TAX INSPECTOR,
   COMMERCIAL TAX CHECK POST, WALAYAR,
   PALAKKAD DISTRICT.

3. COMMERCIAL TAX OFFICER, SECOND CIRCLE,
   COMMERCIAL TAX OFFICE COMPLEX, POOTHOLE,
   THRISSUR-680 004

BY GOVERNMENT PLEADER SMT. LILLY.K.T.

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

sts

WP(C).NO.33062/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1	**COPY OF THE REGISTRATION CERTIFICATE**
P2	**COPY OF THE INVOICE DATED 06/07/2015**
P2(A)	**COPY OF THE ANNUAL RETURN FOR THE YEAR 2014-15**
P3	**COPY OF THE INVOICE DATED 28/07/2015**
P3(A)	**COPY OF THE INVOICE DATED 28/07/2015**
P3(B)	**COPY OF THE INVOICE DATED 30/07/2015**
P4	**COPY OF THE FORM 8F DECLARATION IN RELATION TO EXT.P3 INVOICE**
P4(A)	**COPY OF THE FORM 8F DECLARATION IN RELATION TO EXT.P3 (A) INVOICE**
P4(B)	**COPY OF THE FORM 8F DECLARATION IN RELATION TO EXT.P3 (B) INVOICE**
P5	**COPY OF THE NOTICE DATED 4/08/2015 ISSUED BY THE 1ST RESPONDENT**
P5(A)	**COPY OF THE NOTICE DATED 8/08/2015 ISSUED BY THE 2ND RESPONDENT**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33062 OF 2015 (G)

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, is aggrieved by Exts.P5 and P5(a) notices issued to him, detaining a consignment of sports goods including foot wear, 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 notices 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 Exts.P5 and P5(a) notices, it is seen that the objection of the respondents is essentially with regard to the classification of the goods for the purposes of taxation, as also on the finding that the petitioner did not have the authorization to effect inter-state purchase of the said goods at concessional rate of tax. Counsel for the petitioner would submit that the sports goods included foot wear, and at any rate, the petitioner was paying tax at the higher rate contemplated under the KVAT Act at the time of effecting sales of the goods within the State. He produces Ext.P2 invoice to substantiate the said contention. As regards the objection with regard to unauthorized purchases effected by him, it is submitted that he has an authorization to obtain sports goods at concessional rate of tax and this would include even sports shoes and other foot wear used for sports. Taking note of the said contention as also the fact that the petitioner is a registered dealer within the State, I direct the 1st and 2nd respondents to release the goods and the vehicle covered by Exts.P5 and P5(a) notices, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Exts.P5 and P5(a) notices, before the 1st and 2nd respondents.

(ii) The 1st and 2nd respondents 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 and 2nd respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/30/10/15