

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. 33174 of 2015 (V)

PETITIONER :

**K.G.BYJU,
LITTLE ALEX MOVIES,
MELE PATTAMBI.P.O., PATTAMBI,
PALAKKAD.**

**BY ADVS.SRI.K.N.SREEKUMARAN
SMT.V.PSEENA DEVI**

RESPONDENT :

**COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
MUTHANGA, WAYANAD-673 681**

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.33174/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE LICENCE DATED 24/5/2015 ISSUED BY THE GRAMA PANCHAYATH, PATTAMBI**
- P2 COPY OF THE PURCHASE ORDER DATED 7/9/2015 PLACED BY THE PETITIONER WITH M/S. BLUESTAR LIMITED, U.T OF DADRA & NAGAR HAVELI.**
- P3 COPY OF THE INVOICE BEARING NO.0000005764 DATED 28/9/2015 ISSUED BY M/S BLUESTAR LTD TO PETITIONER.**
- P4 COPY OF THE CERTIFICATE OF OWNERSHIP ISSUED BY THE PETITIONER.**
- P5 COPY OF THE E-CONSIGNMENT DECLARATION IN FORM 8F ACCOMPANYING THE CONSIGNMENT.**
- P6 COPY OF THE NOTICE IN FORM 17 A BEARING OR NO.1326/15-16 DATED 29/10/2015 ISSUED BY THE RESPONDENT**
- P7 COPY OF THE CIRCULAR NO.3/2015 DATED 14/1/2015 ISSUED BY THE COMMISSIONER OF COMMERCIAL TAXES, THIRUVANANTHAPURAM.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.33174 of 2015

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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 Kerala Value Added Tax Act is aggrieved by Ext.P6 notice issued to him detaining a consignment of air conditioners 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.P6 detention notice, it is seen that the objection of the respondent is essentially with regard to the alleged violation of the terms of Circular No.3/2015 dated 14.01.2015. Counsel for the petitioner would point out, and rightly so, that the Circular does

not apply to the goods under transportation. I, accordingly find that the detention of the consignment was wholly unjustified. I also find that the consignment was duly accompanied by valid documents contemplated under the Kerala Value Added Tax Act. I therefore direct the respondent to release the goods and the vehicle to the petitioner, on the petitioner producing a copy of this judgment before the respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

