

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. 33176 of 2015 (V)

PETITIONER:

**M/S.KAJARIA CERAMICS LTD.,
REGISTERED OFFICE AT KAJARIA CERAMICS LTD.,
MN SQUARE, DOOR NO.48/557-A-B-C & D,
NEAR GOLD SOUK GRANDE, VYTILO,
ERNAKULAM - 682 019, REPRESENTED BY IT'S
MANAGER ACCOUNTS, MR.SIEGFRID JACOB.**

BY ADV. SMT.K.LATHA

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. INTELLIGENCE INSPECTOR, SQUAD NO.3,
DEPARTMENT OF COMMERCIAL TAXES,
MATTANCHERRY, MINI CIVIL STATION, ALUVA - 682 101.**

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:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : THE TRUE COPY OF THE BILL INVOICE NO.03517 DATED 23.9.2015
ISSUED BY COSA CERAMICS PVT.LTD., FROM MORABI GUJRAT TO
THE PETITIONER.
- EXT. P2 : THE TRUE COPY OF THE PETITIONER'S VAT INVOICE BILL NUMBER
4415001264 24.10.2015 WITH DISPATCH SEAL DATED 24.10.2015 IN THE
NAME OF JJ MARBLES & GRANITES KRISHNAS BUILDING,
THODUPUZHA.
- EXT. P3 : THE TRUE COPY OF THE FORM 8F DECLARED BY THE PETITIONER
DATED 24.10.2015 AT 3.33 PM.
- EXT. P4 : THE TRUE COPY OF THE DETENTION NOTICE OR NO.468/15
DATED 25.10.2015 ISSUED BY THE SECOND RESPONDENT U/S 47(2)
OF THE KVAT ACT TO THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.33176 of 2015

.....
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.P4 notice issued to him detaining a consignment of vitrified tiles 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 for the petitioner and also the learned Government Pleader 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.P4 detention notice, it is seen that the objection of the respondents is essentially that the invoice that accompanied the transportation was found to be dated 24.10.2015 and the detention was on 25.10.2015 at 11 pm. The respondents therefore suspected multiple transportation using the same documents. Counsel

for the petitioner would submit that the petitioner is a registered dealer in the State and transportation was in a sealed container. It was also pointed out that the transportation was duly accompanied by valid documents contemplated under the Kerala Value Added Tax Act.

(ii) Taking note of the said submission, I direct the 2nd 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.P4 detention notice.

(iii) 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.

(iv) 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

