

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. 33178 of 2015 (V)

PETITIONER:

**SHRI.SHIHAB.M, AGED 37 YEARS,
S/O.MYTHEEN KANNURAWATER,
PROPRIETOR OF M/S.SWALA AGENCIES,
THEKKE MURI, SHOOORANAD,
KUNNATHOOR TALUK, KOLLAM DISTRICT
AND RESIDING AT 'NAJEEMA HOUSE' THEKKEMURI,
SOORANAD, KOLLAM.**

BY ADV. SRI.M.S.SAJEEV KUMAR

RESPONDENT(S):

- 1. THE DEPUTY COMMISSIONER,
COMMERCIAL TAX, TAX COMPLEX,
ASRAMAM.P.O., CHINNAKKADA,
KOLLAM, PIN - 691 002.**
- 2. THE INTELLIGENCE INSPECTOR,
COMMERCIAL TAX, SQUAD-III,
KARUNAGAPPILLY, KOLLAM, PIN - 690 547.**

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 : TRUE COPY OF CERTIFICATE OF REGISTRATION DATED 26.8.2011.
EXT. P2 : TRUE COPY OF INVOICE NO.182 DATED 27.10.2015.
EXT. P3 : TRUE COPY OF LEASE DEED DATED 27.10.2015.
EXT. P4 : TRUE COPY OF NOTICE NO.O.R.625/15-16 DATED 28.10.2015.
EXT. P5 : TRUE COPY OF OBJECTION DATED 28.10.2015.
EXT. P6 : TRUE COPY OF NOTICE UNDER KVAT ACT 2003 DATED 28.10.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.33178 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 PVC curtain rolls 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 goods were seen transported to a premises other than the registered premises of the petitioner. Counsel for the petitioner would submit that the goods were consigned to adjacent business premises of the petitioner which he had taken on lease on 27.10.2015, a day prior to the detentio. He produces Ext.P3 agreement to substantiate his

contention with regard to the entering into of the lease agreement. It is also pointed out that the petitioner is a registered dealer in the state.

(ii) Taking note of the said submission, and finding that the transportation of the goods was otherwise in order, 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

