

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. 33187 of 2015 (W)

PETITIONER :

**KAMAL ERACKAL,
ERACKAL TOWER, POLICE STATION ROAD,
SULTHAN BATHERY, WAYANAD-673 592**

**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:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE PERMIT DATED 25/4/2013 ISSUED BY THE GRAMA PANCHAYATH, SULTHAN BATHERY.
- P2 COPY OF THE PURCHASE ORDER DATED 16/9/2015 PLACED BY THE PETITIONER WITH M/S. BLUESTAR LIMITED, U.T. OF DADRA & NAGAR HAVELI.
- P3 COPY OF THE INVOICE BEARING NO.0000005586 DATED 25/9/2015 ISSUED BY M/S. BLUESTAR LTD TO PETITIONER.
- P4 COPY OF THE INVOICE BEARING 0000006183 DATED 14/10/2015 ISSUED BY M/S BLUESTAR LTD TO PETITIONER.
- P5 COPY OF THE INVOICE BEARING 0000005869 DATED 30/9/2015 ISSUED BY M/S. BLUESTAR LTD TO PETITIONER.
- P6 COPY OF THE INVOICE BEARING NO.0000005870 DATED 30/9/2015 ISSUED BY M/S BLUESTAR LTD TO PETITIONER.
- P7 COPY OF THE INVOICE BEARING NO.0000006206 DATED 14/10/2015 ISSUED BY M/S BLUESTAR LTD TO PETITIONER.
- P8 COPY OF THE FORM 16 ATTESTED BY THE PETITIONER IN RESPECT OF EXT.P3 INVOICE
- P9 COPY OF THE FORM 16 ATTESTED BY THE PETITIONER IN RESPECT OF EXT.P4 INVOICE
- P10 COPY OF THE FORM 16 ATTESTED BY THE PETITIONER IN RESPECT OF EXT.P5 INVOICE
- P11 COPY OF THE FORM 16 ATTESTED BY THE PETITIONER IN RESPECT OF EXT.P6 INVOICE
- P12 COPY OF THE FORM 16 ATTESTED BY THE PETITIONER IN RESPECT OF EXT.P7 INVOICE
- P13 COPY OF THE E-CONSIGNMENT DECLARATION IN FORM 8F ACCOMPANYING THE CONSIGNMENT
- P14 COPY OF THE NOTICE IN FORM 17 A BEARING OR NO.1325/15-16 DATED 29/10/2015 ISSUED BY THE RESPONDENT
- P15 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/

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P.A.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.33187 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.P14 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.P14 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

