IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WP(C).No. 33341 of 2015 (P)

PETITIONER :

T.T. SARANGADHARAN
PROPRIETOR, V.S. FURNISHING, 40/5445
ANANATH ANNEX BUILDING, T.D. ROAD
ERNAKULAM.

BY ADV. SRI.S.ANIL KUMAR (TRIVANDRUM)

RESPONDENT(S) :
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1. **COMMERCIAL TAX INSPECTOR**
   COMMERCIAL TAX CHECK POST
   WALAYAR, PALAKKAD DISTRICT – 678 624.

2. **ASSISTANT COMMISSIONER**
   COMMERCIAL TAXES, SPECIAL CIRCLE – 1
   THEVARA, KOCHI – 682 015.

R1 & R2 BY GOVT. PLEADER SMT. K.T. LILLY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 33341 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1	:	COPY OF REGISTRATIONB CERTIFICATE.
EXT.P2		COPY OF INVOICE DATED 5-9-2015.
EXT.P2(a)		COPY OF ANNUAL RETURN FOR THE YEAR 2014-15.
EXT.P3		COPY OF INVOICE DATED 28-10-2015.
EXT.P4		COPY OF FORM 8F DECLARATION (TRANSACTION SLIP).
EXT.P5		COPY OF NOTICE DATED 30-10-2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.33341 of 2015

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Dated this the 2nd day of November 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P5 notice issued to him detaining a consignment of PVC laminated sheets 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.P5 notice, it is seen that the objection of the respondents is essentially with regard to the classification of the item that was being transported. While the petitioner had classified the item as taxable @ 5%, the

respondents took a stand that the item would attract tax @ 14.5%. The learned counsel for the petitioner would submit that the goods are actually taxable @ 14.5% and the petitioner has been collecting tax at 14.5%, when he sells the goods locally within the State. He produced Ext.P2 invoice to substantiate the said submission. It is also pointed out that the petitioner is a registered dealer in the State. Taking note of the said submission, I direct the 1st respondent to release the goods and vehicle to the petitioner, on the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P5 notice, before the 1st respondent.

(ii) The 1st 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/