

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 33506 of 2015 (K)

PETITIONER:

**MOAT PROJECT MANAGEMENT PVT.LTD.,
MOAT HOUSE, PANAMPILLY NAGAR,
ERNAKULAM - 682 036, REPRESENTED BY ITS
MANAGING DIRECTOR BINOY JOY.**

**BY ADVS.SRI.RAJESH NAMBIAR
SRI.N.R.SAJ**

RESPONDENT:

**INTELLIGENCE INSPECTOR,
INTELLIGENCE SQUAD NO.VII,
COMMERCIAL TAXES, HQ MANNARKKAD,
PALAKKAD, PIN - 678 582.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1: TRUE COPY OF THE NOTICE U/S.47(2) DATED 29.10.15.
- EXT. P2: TRUE COPY OF THE INVOICE DATED 27.10.2015 BEARING
NO.CST/083/2015-16.
- EXT. P3: TRUE COPY OF FORM NO.16 DATED 28.10.2015.
- EXT. P4: TRUE COPY OF FORM 8F DATED 28.10.2015.
- EXT. P5: TRUE COPY OF THE PURCHASE ORDER DATED 4.9.2015.
- EXT. P6: TRUE COPY OF THE REPLY DATED 30.10.2015.
- EXT. P7: TRUE COPY OF THE CERTIFICATE ISSUED BY THE VILLAGE OFFICER,
KIZHAKKAMBALAM.
- EXT. P8: TRUE COPY OF THE BUILDING PERMIT.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.33506 of 2015

.....
Dated this the 3rd day of November, 2015

J U D G M E N T

A consignment of steel shapes and sections with accessories that was being transported at the instance of the petitioner was detained by the respondent. Ext.P1 is the detention notice. 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.P1 detention notice, it is seen that the objection of the respondent is essentially that the petitioner had not produced any document to show that he would not be liable to pay tax under the Kerala Value Added Tax Act in Kerala. Counsel for the petitioner would submit that the transportation of the goods was duly accompanied by a valid invoice, purchase order and Form-16 certificate of ownership stating that the petitioner was transporting the

material for his own use in Kerala. Taking note of the said submission of counsel for the petitioner and finding that the transportation of the goods was accompanied by documents required under the Kerala Value Added Tax Act, I direct the 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.P1 detention notice.

(iii) The 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 respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

