

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. 33508 of 2015 (K)

PETITIONER(S):

**ALBANNA ENGINEERING INDIA PRIVATE LIMITED,
XIV 305 A4 (4), SEAPORT AIRPORT ROAD,
KAKKANAD-682 037, REPRESENTED BY ITS
AUTHORISED SIGNATORY SRI.RICHARD THOMAS.**

BY ADV. SRI.K.S.HARIHARAN NAIR.

RESPONDENT(S):

- 1. INTELLIGENCE INSPECTOR, SQUAD NO.3,
MATTANCHERRY, MINI CIVIL STATION, ALUVA-683 101.**
- 2. THE ASST. COMMISSIONER, WORKS CONTRACT,
COMMERCIAL TAXES, CLASS TOWER,
ERNAKULAM, PIN-682 018.**

BY GOVT. 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:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE
2ND RESPONDENT.
- EXT.P2 COPY OF THE PURCHASE ORDER DATED 19/05/2014 ISSUED BY BPCL.
- EXT.P3 COPY OF THE QUARTERLY RETURN UPTO 30/09/2015.
- EXT.P4 COPY OF THE LETTER SHOWING THE TRANSPORTATIO OF
GOODS DATED 30/10/2015.
- EXT.P4A COPY OF THE MATERIAL PURCHASE BILL DATED 19/10/2015.
- EXT.R4B COPY OF THE CHALAN DATED 31/10/2015.
- EXT.P5 COPY OF THE NOTICE DATED 30/10/2015 ISSUED BY THE
1ST RESPONDENT.
- EXT.P6 COPY OF THE REPLY DATED 02/11/2015 FILED BY THE PETITIONER.
- EXT.P7 COPY OF THE CIRCULAR DATED 24/09/2012 ISSUED BY THE
COMMISSIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.33508 of 2015
.....

Dated this the 3rd day of November, 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.P5 notice issued to him detaining a consignment of steel structures 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 detention notice, it is seen that the objection of the respondents is essentially that the transportation of the goods was not accompanied by any valid document as contemplated under Section 46(3) of the Kerala Value Added Tax Act. It was also found that there was no mandatory delivery note in Form-16 that accompanied the goods under transportation. Counsel for the petitioner would submit that as per Rule 58 (18) of the Kerala Value

Added Tax Rules, if the transportation is within 25 kilometres then there is no requirement to produce documents other than a letter that is issued by the person at whose instance the transportation is done showing the details regarding the goods transported and other particulars. I note, however, that the goods in question had to be necessarily accompanied by a mandatory delivery note in Form-15 as contemplated under Rule 58 (16) of the Kerala Value Added Tax Rules. Inasmuch as the said document was not there the detention on the part of the respondents cannot be said to be unjustified.

(ii) Taking note of the fact that the petitioner is a registered dealer in the State, I direct the 1st respondent to release the goods and the vehicle to the petitioner, on the petitioner paying 30% of the security deposit amount demanded in Ext.P5 and furnishing a simple bond without surety for the balance amounts demanded therein before the 1st respondent.

(iii) 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.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

