

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 33536 of 2015 (N)

PETITIONER:

**COCHIN STEEL HOUSE, JEWS STREET,
ERNAKULAM, KOCHI 682 031.
(REPRESENTED BY THE MANAGING PARTNER
SRI.JAISON K.V)**

**BY ADVS.SRI.K.N.SREEKUMARAN
SMT.V.PSEENA DEVI**

RESPONDENT(S):

- 1. INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, SUAD NO.VI,
ERNAKULAM - 682 015.**
- 2. INTELLIGENCE OFFICER,
COMMERCIAL TAXES, SQUAD NO.VI,
ERNAKULAM - 682 015.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1- TRUE COPY OF THE CIRCULAR NO.12/2011 DATED 13.7.2011 OF THE COMMISSIONER OF COMMERCIAL TAXES.
- P2- TRUE COPIES OF THE INVOICE PER INVOICE NO.2238 DATED 15.6.2015 OF M/S.SHANTI METAL, CHENNAI.
- P3- TRUE COPY OF THE DECLARATION IN FORM 8FA NO.320812/8FA/131/2015 DATED 20.6.2015 UPLOADED BY THE PETITIONER.
- P4- TRUE COPY OF THE NOTICE IN FORM 17A IN OR VI/561/15-16 DATED 26.6.2015 OF THE 1ST RESPONDENT.
- P5- TRUE COPY OF THE REPLY DATED 30.6.2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P6- TRUE COPY OF THE REPLY DATED 8/7/2015 ISSUED BY 1ST RESPONDENT TO THE PETITIONER.
- P7- TRUE COPY OF THE LETTER DATED 28.7.2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ALONG WITH ACKNOWLEDGEMENT.
- P8- TRUE COPY OF THE LETTER DATED 23.9.2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 33536 of 2015

Dated this the 13th day of November, 2015

JUDGMENT

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 Stainless Steel Utensils 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 appearing for the petitioner and also the learned Government Pleader appearing for the respondent.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:

- (i) On a perusal of Ext.P4 notice, it is seen that the objection of the respondent is essentially that the goods that were transported by rail, were not duly accompanied by a Form 8FA declaration. Counsel for the petitioner would submit that the 8FA declaration could be filed only after the goods

reached the destination station and delivery was taken there from for onward transportation to the premises of the petitioner. The learned Government Pleader, on instructions, would submit that the Form 8FA declaration can be filed online by indicating the manner of transportation as rail and no further details, such as the number of the train etc., need to be furnished. Taking note of the said submission, but finding that the petitioner is a registered dealer in the State, although the petitioner did not comply with the requirement of filing an online 8FA declaration within time, considering the low value of the consignment, I am inclined to direct the 1st respondent to release the goods covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the 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