IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

WP(C).No. 33878 of 2015 (H)

PETITIONER :

M. NOWFEL,
PROPRIETOR
SUGAR SOAP INDUSTRIES
MUGHATALA P.O., KOTTARAKKARA
KOLLAM – 691 577.

BY ADVS.SRI.V.DEVANANDA NARASIMHAM
SRI.P.H.RIYAS

RESPONDENT(S) :
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1. **THE INTELLIGENCE INSPECTOR**
   SQUAD NO. IV, COMMERCIAL TAXES
   THIRUVANANTHAPURAM – 695 033
   CAMP AT AMARAVILA.

2. **THE COMMERCIAL TAX OFFICER**
   COMMERCIAL TAXES, KUNDARA,
   KOLLAM – 691 501.

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 33878 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1	:	COPY OF TAX INVOICE DATED 22-10-15 ISSUED BY INTERSTATE DEALER OF CHENNAI TO THE PETITIONER.
EXT.P2		COPY OF DETENTION NOTICE DATED 27-10-15 ISSUED U/S. 47(2) OF THE KVAT ACT BY IST RESPONDENT TO THE PETITIONER.
EXT.P3		COPY OF THE CERTIFICATE 28-10-15 ISSUED BY 2ND RESPONDENT TO THE PETITIONER TO PRODUCE BEFORE THE INTELLIGENCE OFFICER, SQUAD NO. IV, THIRUVANANTHAPURAM.
EXT.P4		COPY OF THE REPLY DATED 29-10-15 FILED ALONG WITH EXHIBIT P3 CERTIFICATE BEFORE IST 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. 33878 of 2015

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Dated this the 12th day of November, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P2 notice issued to him detaining a consignment of Perfumery compounds containing spirit 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.P2 notice, it is seen that the objection of the respondent is essentially that the petitioner did not have the authorisation to purchase the item inter-State by availing the concessional rate

of tax. Counsel for the petitioner would point out Ext.P3 certificate, which would indicate that the petitioner is authorised to bring in certain chemicals including perfumery in connection with the manufacture of soap. Taking note of the said submission of counsel for the petitioner, and finding that the transportation of the goods was otherwise in compliance with the provisions of the KVAT Act, and also taking into account the fact that the petitioner is a registered dealer, I direct the 1st respondent to release the goods and the vehicle 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

das /12.11.15