

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 33895 of 2015 (J)

PETITIONER(S):

**M/S. LLOYD ELECTRIC AND ENGINEERING LIMITED,
X/672-B1, MALIKAM PEEDIKA, ALANGAD P.O., ALANGAD P.O.**

BY ADV. SRI.JOLLY JOHN

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. INTELLIGENCE INSPECTOR,
SQUAD NO.2, COMMERCIAL TAXES DEPARTMENT,
TALASSERY, PIN-670102.**

BY GOVERNMENT PLEADER SRI.RENJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 33895 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. NOTICE DATED 5/11/15 ISSUED BY THE R2 TO THE PETITIONER UNDER
SECTION 47(2) OF KVAT IN FORM 17A**

EXHIBIT P2 COPY OF THE INVOICE NO.1190001501 DATED 30/10/15

EXHIBIT P3 COPY OF 8F DECLARATION FILED BY THE CONSIGNOR.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.33895 of 2015

Dated this the 9th day of November 2015

JUDGMENT

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P1 notice issued to him, detaining a consignment of Split Air Conditioners system, that was being transported at the instance of the petitioner. Ext.P1 is the detention notice issued to 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 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.P1 notice, it is seen that the objection of the respondents is essentially that the goods not seen declared at any of the border

check posts. Counsel for the petitioner would submit that the goods had in fact been declared in the check post and the transportation of the goods was duly covered by valid documents as contemplated under the KVAT Act. He produces Ext.P2 Stock transfer invoice as also Ext.P3 Form 8F declaration, which was uploaded in the KVATIS Website on 30.10.2015, whereas the detention was only on 05.11.2015. It is also submitted that the petitioner is a registered dealer within the state. Taking note of the said contention, I direct the 2nd respondent to release the goods and vehicle covered by Ext.P1 notice, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P1 notice, before the 2nd respondent.

(ii) The 2nd 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 2nd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/