

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. 33905 of 2015 (K)

PETITIONER :

**M/S.GREEN READYMADE STEEL PRODUCTS INDIA PVT. LTD.,
#393, GROUND FLOOR, KOONAMTHAI P.O.,
EDAPALLY, KERALA – 682 024
REPRESENTED BY ITS DIRECTOR
PRINCE JOSEPH.**

BY ADV. SRI.JOSE JACOB

RESPONDENT :

**COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHECKPOST
WALAYAR – 678 624.**

BY GOVT. PLEADER SRI. R. RANJITH

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

Mn

...2/-

WP(C).No. 33905 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE VAT REGISTRATION DATED 28.5.2015.
- EXT.P2 COPY OF FORM 8F DATED 4.11.2015.
- EXT.P3 COPY OF FORM 16 DATED 4.11.2015.
- EXT.P4 COPY OF E-SUGAM DATED 3-11-2015.
- EXT.P5 COPY OF TRANSIT PASS DATED 3-11-2015.
- EXT.P6 COPY OF DECLARATION DATED 3-11-2015.
- EXT.P7 COPY OF CONSIGNMENT NOTE DATED 2-11-2015..
- EXT.P8 COPY OF THE TRANSIT INSURANCE DATED 2-11-2015.
- EXT.P9 COPY OF PURCHASE INVOICE DATED 10.1.2015.
- EXT.P10 COPY OF FORM 16 DATED 4.11.2015.
- EXT.P11 COPY OF THE NOTICE DATED 4.11.2015.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33905 OF 2015 (K)

Dated this the 9th day of November, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P11 notice issued to him, detaining a consignment of cutting machines, 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 and the submissions made across the Bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P11 notice, it is seen that the objection of the respondent is essentially that the Form 16 certificate of ownership that accompanied the consignment was not uploaded in the electronic format in the KVATIS website but only a manual Form 16 was made available. There is no dispute with regard to the fact that the transportation was accompanied by a valid invoice as contemplated under the KVAT Act. Counsel for the petitioner would submit that the petitioner, having his business operations in Karnataka, was not aware of the requirement of uploading the Form 16 certificate of ownership in the electronic format which was made mandatory only as per a recent Circular issued by the Kerala Commercial Taxes Department. It is also submitted that he is a registered dealer within the State and the transportation of the goods was accompanied by valid documents as contemplated under the KVAT Act. Taking note of the said submission of counsel for the petitioner, I direct the respondent to release the goods and the vehicle covered by Ext.P11, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P11 notice, before the respondent.

(ii) 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, untrammelled by the observations in this judgment.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/9/11/15