

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. 33912 of 2015 (L)

PETITIONER :

**SWAMI, S/O.GOVINDE GOWDA,
NO.42, KYATHANAHALLI POST, MUDAGUDU,
ARAKAGUDU, HASSAN DISTRICT, KARNATAKA, PIN-573 102**

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENT :

**INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, SQUAD NO.1, KASARAGOD,
KERALA, PIN-671 121**

BY GOVERNMENT PLEADER SMT. LILLY.KT.

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

sts

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE JCB LOAN CONFIRMATION ISSUED BY THE LOAN PROVIDER
DATED 30/10/2015**
- P2 COPY OF THE VAT INVOICE DATED 31/10/2015**
- P2(A) COPY OF THE DELIVERY CHALAN DATED 31/10/2015**
- P2(B) COPY OF THE SALES CERTIFICATE DATED 2/11/2015**
- P2(C) COPY OF THE MOTOR VEHICLE INSURANCE COVER NOTE DATED 02/11/2015**
- P3 COPY OF THE NOTICE DATED 03/11/2015 ISSUED BY THE RESPONDENT**
- P4 COPY OF THE TEMPORARY PERMIT ISSUED BY RTO, BENGALORE
(CENTRAL) DATED 4/11/2015**
- P5 COPY OF THE REPLY FILED BY THE PETITIONER BEFORE THE RESPONDENT
DATED 8/11/2015**
- P6 COPY OF THE DETAILS SHOWING THAT THE WORSHIP PLACE IS VERY NEAR
TO KARNATAKA BOUNDARY.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.S.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33912 OF 2015 (L)

Dated this the 9th day of November, 2015

J U D G M E N T

A JCB vehicle that was being transported by the petitioner was detained by the respondent at the check post. Ext.P3 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 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.P3 notice, it is seen that the objection of the respondent is essentially that the JCB was seen transported without any valid document

as contemplated under the KVAT Act. Counsel for the petitioner submit that the vehicle which is a new vehicle was brought to Kerala only for the purposes of doing a pooja. It is submitted, however, that in order to avoid the continued detention, the petitioner is ready to take back the vehicle to Karnataka. Taking note of the said submission of counsel for the petitioner, I direct the respondent to release the goods and the vehicle to the petitioner, so as to enable the petitioner to take the goods back to Karnataka. The respondent shall release the goods and the vehicle to the petitioner for the said purpose on the petitioner producing a copy of this judgment before the respondent. The respondent shall also ensure that the vehicle is transported beyond the border check post to Karnataka.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/9/11/15