

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 34002 of 2015 (A)

PETITIONER(S):

**M/S. NATURAL FIBRE PRODUCTS,
CONSORTIUM (P) LTD., 871/A.B,
THAICKAL BRIDGES ROAD,
KADAKKARAPPALLY, CHERTHALA P.O.,
REPRESENTED BY ITS GENERAL MANAGER
MAYA KISHORE.**

BY ADV. SRI.AJI V.DEV

RESPONDENT(S):

- 1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
WALAYAR - 678 625.**
- 2. INSPECTING ASST. COMMISSIONER,
COMMERCIAL TAXES, WALAYAR - 678 625.**
- 3. COMMERCIAL TAX OFFICER,
CHERTHALA - 688 524.**

BY GOVERNMENT PLEADER SMT.LILLY K.T.

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

msv/

WP(C).No. 34002 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: A TRUE COPY OF THE DELIVERY CHALAN NO.0000876/ DTD.19.10.2015
ISSUED BY THE CONSIGNOR.**

EXT.P2: A TRUE COPY OF THE LETTER DTD.19.10.2015 ISSUED BY THE CONSIGNER.

EXT.P3: A TRUE COPY OF THE TRANSACTION SLIP DTD.20.10.2015.

**EXT.P4: A TRUE COPY OF THE NOTICE DTD.30.10.2015 ISSUED BY THE
1ST RESPONDENT.**

EXT.P5: A TRUE COPY OF THE CIRCULAR NO.3/2015 DTD.14.1.2015.

EXT.P6: A TRUE COPY OF THE REPLY FILED BY THE PETITIONER DTD.5.11.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.34002 of 2015

Dated this the 11th 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 comprising of a metal detector, that was being transported at the instance of the petitioner. In the writ petition the petitioner is aggrieved by the insistence of the respondents 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 as also the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P4 detention notice, it is seen that the objection of the respondents is

essentially with regard to the documents that ought to have accompanied the transportation of the goods. It is pointed out that the consignment was accompanied with a letter and a delivery chalan which are not the valid documents as contemplated under the KVAT Act. It is also pointed out that there was no declaration in Form 8F and although the nature of the transaction was shown as 'own use', there was no certificate to that effect in Form 16, issued by the consignor. Counsel for the petitioner would submit that the metal detector was being transported to the premises of the petitioner at the instance of one of the purchasers of products from the petitioner. It is pointed out that the metal detector was sought to be installed in the premises of the petitioner so as to ensure that the products sold by the petitioner to the purchaser was free of metal. The ownership of the metal detector was to be with the consignor at all times. It is also pointed out that the petitioner, who is the consignee of the goods, is a registered dealer within the State. On considering the submissions of counsel for the petitioner, I am of the view that inasmuch as the transportation of the goods was not accompanied by valid documents as contemplated under the KVAT Act, the petitioner cannot obtain release of the goods except on conditions. Accordingly, I direct the 1st

respondent to release the goods and the vehicle to the petitioner, on the petitioner paying 30% of the security deposit amount demanded in Ext.P4 and furnishing a simple bond without sureties for balance amount demanded in Ext.P4 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

sm/