

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. 34068 of 2015 (G)

PETITIONER(S):

**M/S.NEHA LEATHERS,
DOOR NO.40/1486, 1ST FLOOR, PKV BUILDINGS
MARKET ROAD, ERNAKULAM, REPRESENTED BY ITS PROPRIETOR
MR.SHIRAZ K.V.**

**BY ADVS.SRI.V.SURESH (TRIVANDRUM)
SRI.P.G.JAYASHANKAR
SMT.P.SREELAKSHMI
SRI.V.SREEJAYAN**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TAXES, DEPARTMENT OF TAXES,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT
TRIVANDRUM 695 001.**
- 2. COMMISSIONER OF COMMERCIAL TAXES,
DEPARTMENT OF COMMERCIAL TAXES, KARAMANA,
TRIVANDRUM 695 001.**
- 3. DEPUTY COMMISSIONER (INTELLIGENCE),
DEPARTMENT OF COMMERCIAL TAXES, KARAMANA,
TRIVANDRUM 695 001.**
- 4. INTELLIGENCE OFFICER,
SQUAD NO.5, COMMERCIAL TAXES DEPARTMENT,
KOTTAYAM 686 001.**
- 5. INTELLIGENCE INSPECTOR,
SQUAD NO.5, COMMERCIAL TAXES DEPARTMENT,
KOTTAYAM 686 001.**

BY GOVERNMENT PLEADER SMT.LILLY K.T.

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

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER

EXHIBIT-P2: TRUE COPY OF THE SALE BILL NO.1 DATED 10/10/15

EXHIBIT-P3: TRUE COPY OF THE SALE BILL NO.2 DATED 27/10/15

EXHIBIT P4: TRUE COPY OF THE NOTICE UNDER S.47 OF KVAT ACT DATED 27/10/15

EXHIBIT P5: TRUE COPY OF THE REPLY DATED 28/10/15

EXHIBIT P6: TRUE COPY OF THE REVISED NOTICE ISSUED BY R4.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.34068 of 2015

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 Exts.P4 and P6 detention notices issued to him detaining a consignment of Footwear 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 and the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Exts.P4 and P6 notices, it is seen that the objection of the respondents is

essentially that the invoices, under cover of which the transportation of the goods was effected, were seen as not matching with the invoice numbers indicated in the returns submitted by the petitioner for the previous month. Counsel for the petitioner would submit that the invoices that were used to accompany the transportation in question were wholesale invoices which were maintained in another book, the details of which were furnished to the department only on 21.10.2015. It is stated that the invoices are those which are used in the regular course of business and there is no discrepancy in the invoice produced that accompanied the transportation. It is also stated that the petitioner is a registered dealer within the State. Taking note of the said submission of counsel for the petitioner and finding that the transportation of the goods was otherwise in accordance with the provisions of the KVAT Act, I direct the 4th and 5th respondents to release the goods and vehicle covered by Ext.P6 notice, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P6 notice, before the 4th and 5th respondents.

(ii) The 4th and 5th respondents 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 4th and 5th respondents.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/