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. 34108 of 2015 (K)

PETITIONER :

EXTRA WEAVE PRIVATE LIMITED.,
264B, SAKTHEESWARAM JN., VELLORVATTOM,
CHERTHALA, ALAPPUZHA DISTRICT,
REPRESENTED BY ITS AUTHORISED SIGNATORY SRI.G.G.ANIYAN.

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR

RESPONDENT(S):
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1. **COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAX CHECK POST, WALAYAR,
   PALAKKAD DISTRICT-678 624

2. **COMMERCIAL TAX OFFICER, CHERTHALA,**
   ALAPPUZHA DISTRICT-688 524.

BY GOVERNMENT PLEADER SMT. K.T.LILLY

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

sts

WP(C).NO.34108/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE REGISTRATION CERTIFICATE.

P2 COPY OF THE INVOICE DATED 7/09/2015

P2(A) COPY OF THE RETURN FOR THE MONTH OF SEPTEMBER, 2015

P3 COPY OF THE INVOICE DATED 31/10/2015

P3(A) COPY OF THE DECLARATION IN FORM 8F DATED 2/11/2015

P4 COPY OF THE NOTICE DATED 4/11/2015 ISSUED BY THE 1ST RESPONDENT

P5 COPY OF THE REPLY DATED 7/11/2015.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.34108 of 2015

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Dated this the 11th day of November, 2015

J U D G M E N T

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 of jute mats 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 Ext.P4 detention notice, it is seen that the objection of the respondents is essentially that the the item which is taxable at 5% was declared as taxable at nil rate, and therefore, the respondents suspected that the petitioner would evade payment of tax when the item was sold within the State. Counsel for the petitioner would submit that

the petitioner pays 5% tax when the goods are sold within the State, and further, the declaration with regard to nil rate was made only because in the KVATIS software there was no option to show the item as jute mat and the only option that could be selected was one showing “mat”. It is also not in dispute that the petitioner is a registered dealer in the State.

(ii) Under the said circumstances, I direct the 1st respondent to release the goods and the vehicle to the petitioner, on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P4.

(iii) 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.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/11.11.15