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. 34110 of 2015 (K)

PETITIONER(S) :

SUVIN M.P.,
PROPRIETOR, VANDANAM AUTO SERVICES,
28/353D, OTTAPUNNA, 28, NEAR BY PASS JN.,
OTTAPUNNA, CHERTHALA P.O., PIN- 688 524.

BY ADV. SRI.S.ANIL KUMAR (TRIVANDRUM)

RESPONDENT(S) :
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1. COMMERCIAL TAX INSPECTOR,
   COMMERCIAL TAX CHECK POST, VELANTHAVALAM,
   PALAKKAD DISTRICT- 687 624.

2. COMMERCIAL TAX OFFICER,
   CHERTHALA, ALAPPUZHA DISTRICT, PIN- 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:

Msd.

WP(C).No. 34110 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: COPY OF REGISTRATION CERTIFICATE.

EXHIBIT P2: COPY OF APPLICATION DATED 21.10.2015.

EXHIBIT P3: COPY OF INVOICE DATED 23.10.2015.

EXHIBIT P3(A): COPY OF DECLARATION IN FORM 8F (TRANSACTION SLIP) DATED 28.10.2015.

EXHIBIT P4: COPY OF NOTICE DATED 31.10.2015 ISSUED BY BY THE 1ST RESPONDENT.

EXHIBIT P5: COPY OF APPLICATION DATED 07.11.2015 FILED ON-LINE.

EXHIBIT P6: COPY OF CERTIFICATE DATED 09.11.2015 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 34110 of 2015

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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 detention notice issued to him detaining a consignment of Car washing machines 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 notice, it is seen that the objection of the respondents is essentially that the petitioner did not have the authorisation to

purchase the commodity at a concessional rate of tax since the item in question was not included in its registration certificate under the CST Act. Counsel for the petitioner would submit that he had submitted an application to include the commodity in the CST registration and the said application was acknowledged by the respondents The application was not acted upon only because the petitioner had not filed the same electronically. There is no dispute however with regard to the fact that petitioner is a registered dealer and further that the transportation of the goods was accompanied by valid documents as contemplated under the KVAT Act. Under the said circumstances, I direct the 1st respondent to release the goods and vehicle covered by Ext.P4 notice, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P4 notice, 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/