

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. 34119 of 2015 (L)

PETITIONER(S):

**N.K.P.SONS, JEWS STREET,
ERNAKULAM, KOCHI-31,
(REPRESENTED BY M.P.THAJUDHEEN,
PROPRIETOR)**

**BY ADVS.SRI.K.N.SREEKUMARAN
SMT.V.PSEENA DEVI**

RESPONDENT(S):

**COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
WALAYAR - 676 621.**

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/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE CERTIFICATE OF REGISTRATION DTD.30.5.2007 ISSUED BY THE ASST. COMMISSIONER, SPECIAL CIRCLE-I, ERNAKULAM.

EXT.P2: TRUE COPY OF THE MONTHLY RETURN FOR SEPTEMBER 2015 FILED BEFORE THE CTO, 2ND CIRCLE, TRIPPUNITHURA.

EXT.P3: TRUE COPY OF THE C FORM NO.320711/IC/2232/20115 ISSUED BY PETITIONER TO M/S.BLB.

EXT.P4: TRUE COPIES OF THE INVOICES BEARING NOS.52 DTD.27.10.2015 OF M/S BLB GLOBAL BUSINESS LTD., NEW DELHI.

EXT.P4(a):TRUE COPIES OF THE INVOICES BEARING NOS.53 DTD.27.10.2015 OF M/S BLB GLOBAL BUSINESS LTD., NEW DELHI.

EXT.P4(b):TRUE COPIES OF THE INVOICES BEARING NOS.54 DTD.27.10.2015 OF M/S BLB GLOBAL BUSINESS LTD., NEW DELHI.

EXT.P4(c):TRUE COPIES OF THE INVOICES BEARING NOS.55 DTD.27.10.2015 OF M/S BLB GLOBAL BUSINESS LTD., NEW DELHI.

EXT.P4(d):TRUE COPIES OF THE INVOICES BEARING NOS.56 DTD.27.10.2015 OF M/S BLB GLOBAL BUSINESS LTD., NEW DELHI.

EXT.P5: TRUE COPY OF THE E-CONSIGNMENT DECLARATION NO.29906 DTD.27.10.2015.

EXT.P5(a): TRUE COPY OF THE E-CONSIGNMENT DECLARATION NO.29908 DTD.27.10.2015.

EXT.P5(b): TRUE COPY OF THE E-CONSIGNMENT DECLARATION NO.29901 DTD.27.10.2015.

EXT.P5(c): TRUE COPY OF THE E-CONSIGNMENT DECLARATION NO.29904 DTD.27.10.2015.

EXT.P5(d): TRUE COPY OF THE E-CONSIGNMENT DECLARATION NO.29914 DTD.27.10.2015.

EXT.P6: TRUE COPY OF THE NOTICE NO.OR 3208/9/2015 DTD.2.11.2015 ISSUED BY THE RESPONDENT.

EXT.P7: TRUE COPY OF THE LETTER DTD.31.10.2015 FILED BY THE PETITIONER BEFORE THE COMMERCIAL TAX OFFICER, 2ND CIRCLE, TRIPUNITHURA.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.34119 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.P6 detention notice issued to him detaining a consignment of Almonds-Shelled that was being transported at the instance of 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 for the petitioner and also the learned Government Pleader 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.P6 notice, it is seen that the objection of the respondent is essentially that the petitioner did not have the authorisation to deal in

the product that was being transported. Counsel for the petitioner would rely on Ext.P1 certificate of registration which permits him to deal inter alia in dried fruits, bakery items, ground nuts, pulses and grams and banana chips. It is also pointed out that the petitioner is a registered dealer within the state. Taking note of the said submission of counsel for the petitioner, I direct the respondent 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 respondent.

(ii) The 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 respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/