

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 34216 of 2015 (B)

PETITIONER :

**KALPANA GLASS FIBRE PVT. LTD.,
31/936A, MENONS BUILDING, VAREKKAT ROAD,
PONNURUNNI, VYTTILA, ERNAKULAM PIN - 682019.
REPRESENTED BY ITS BRANCH-IN-CHARGE, SHIVASHARAN.
AGED 33 YEARS**

**BY ADVS.SRI.R.MURALIDHARAN (AROOR)
SRI.R.RAMAKRISHNAN POTTU**

RESPONDENTS :

- 1. THE ASSISTANT COMMISSIONER(WC & LT),
O/O. THE DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
CLASS TOWER, OLD RAILWAY STATION ROAD,
ERNAKULAM PIN - 682018.**
- 2. THE INTELLIGENCE INSPECTOR, SQUAD NO.1,
DEPARTMENT OF COMMERCIAL TAXES, ASRAMAM,
KOLLAM -PIN - 691002.**

BY GOVERNMENT PLEADER SMT. LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE REGISTRATION CERTIFICATE ISSUED UNDER KVAT ACT, DT 26/10/2015.**
- P2: COPY OF THE TAX INVOICE NO. 15-16/0017 DT 30/10/2015.**
- P3: COPY OF THE TAX INVOICE NO. 15686 DT 2/11/2015.**
- P4: COPY OF THE DECLARATION IN FORM 8F DT 31/10/2015.**
- P5: COPY OF THE DECLARATION IN FORM 8F DT 3/11/2015.**
- P6: COPY OF THE NOTICE ISSUED BY THE R2 UNDER SECTION 47(2) DT 9/11/2015.**
- P7: COPY OF THE COVERING LETTER ON FILING APPLICATION FOR REGISTRATION UNDER KVAT ACT BEFORE THE R1, DT 22/9/2015.**
- P8: COPY OF THE WORK ORDER FROM M/S. INDIAN OIL CORPORATION (MARKETING DIVISION), MUMBAI SUBMITTED BEFORE THE R1 DT 31/7/2015.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.34216 of 2015

.....
Dated this the 13th 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.P6 notice issued to him detaining a consignment of High Mast Sign Boards 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.P6 detention notice, it is seen that the objection of the respondents is essentially that the goods were being transported towards Thiruvananthapuram and it was found that the petitioner had not declared any work site in

Kerala and also did not have any branches or go-down in any place in Kerala. The respondents therefore suspected possible evasion of tax. Counsel for the petitioner would submit that the petitioner had obtained a registration only on 26.10.2015 and in the application submitted for registration, the petitioner had clearly indicated the details of the work orders received by him for the purposes of executing which he was applying for registration. The work order issued by the Indian Oil Corporation is also produced by the petitioner as Ext.P8, a perusal of which would show that the work sites were located in various places including Thiruvananthapuram and Kazhakkootam.

(ii) Taking note of the said submission of counsel for the petitioner and also finding that the petitioner is a registered dealer and that the transportation was otherwise accompanied by valid documents as contemplated under the Kerala Value Added Tax Act, I direct the 2nd 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.P6 detention notice.

(iii) The 2nd 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 2nd respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/13.11.15

