IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C).No. 34561 of 2015 (U)

PETITIONER(S):

M.V.VINOD,
S/O.VELAYUDHAN, IRRUPPAMKUNNU HOUSE,
PUTHURUTHY P.O, THRISSUR.

BY ADV. SRI.P.DEEPAK

RESPONDENT(S):

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1. THE REGIONAL TRANSPORT OFFICER,
   ALAPPUZHA-688002.

2. THE ASSISTANT MOTOR VEHICLES INSPECTOR,
   REGIONAL TRANSPORT OFFICE, ALAPPUZHA-688002.

3. THE SUB INSPECTOR OF POLICE,
   CHERTHALA POLICE STATION, CHERTHALA-688524.

BY GOVERNMENT PLEADER SRI.R.RENJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 34561 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF KL-48/G757

EXT.P-2: TRUE COPY OF THE CHECK REPORT DATED 12.11.2015

EXT.P-3: TRUE COPY OF THE TAX LICENCE DATED 13.11.2015

EXT.P-4: TRUE COPY OF THE REPRESENTATION DATED 13.11.2015

RESPONDENT(S)' EXHIBITS
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NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 34561 of 2015
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Dated this the 19th day of November, 2015

JUDGMENT

The petitioner who is the registered owner of a Tipper lorry, that was seized on 12.11.2015 and detained by the 2nd respondent under cover of Ext.P2 check report, is aggrieved by the inaction on the part of the respondents in releasing the vehicle, notwithstanding the fact that the petitioner had already discharged the tax liability in respect of the vehicle, as also showed his willingness to comply with the requirement of unloading the excess goods carried in the vehicle, as per the directions of the respondents. The facts in the writ petition would indicate that the detention of the vehicle under Ext.P2 check report was on two grounds, namely (i) there was no proof of remittance of tax for the present quarter and therefore, a violation of Section 11 of the Kerala Motor Vehicle Taxation Act, and (ii) there was a violation of Section 113(3)(b) of the Kerala Motor Vehicles Act, 1988, inasmuch as the laden weight exceeded the gross vehicle weight specified in the certificate of registration. It is the submission of counsel for the petitioner that immediately after the detention, the petitioner paid the tax due for the present quarter and approached the 1st respondent with a request for releasing the vehicle. The said request was turned down by the 1st respondent, who insisted on the petitioner compounding the offence as a precondition for release of the vehicle. It is under these circumstances that the petitioner approaches this Court for a direction to the respondents to release the vehicle of the petitioner.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that inasmuch as the petitioner had already remitted the tax due for the present quarter and had produced Ext.P3 tax receipt before the 1st respondent, the further detention of the vehicle could only be under circumstances, which were authorised by Section 207 of the Motor Vehicles Act. The said provision does not authorise a detention of the vehicle for the offence under Section 113 (3)(b) of the Motor Vehicles Tax Act. The provisions of Section 113 of the Motor Vehicles Act, clearly indicate that, if there is a finding with regard to excess laden weight of the vehicle, then the authorised officer under the Motor Vehicles Act, is to insist on the petitioner unloading the goods so as to make it in compliance with the

requirement of Sections 113/114, after passing an order in writing to that effect and is to permit the petitioner to proceed further with the vehicle only after complying with the said direction. The provisions do not mandate that the vehicle is to be detained for the said offence. Taking note of the said provisions therefore, I dispose the writ petition with the following directions:

(i) The 1st respondent shall, after permitting the petitioner to unload the goods from the vehicle so as to make it comply with provisions of Section 113 and 114 of the Motor Vehicles Act, forthwith release the vehicle to the petitioner. The unloading of the goods shall be at the risk and cost of the petitioner.

(ii) It will be open to the 1st respondent to proceed further in accordance with law with the check reports, if any drawn up, in connection with the offences alleged to have been committed by the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /19.11.15