

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 34597 of 2015 (Y)

PETITIONER:

**N.A.HUSSAIN, NAISSERY RUBBERS,
THACHANADI, PUTHUCODE,
PALAKKAD DISTRICT.**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON**

RESPONDENT(S):

- 1. AGRICULTURAL INCOME TAX &
COMMERCIAL TAX OFFICER,
ALATHUR - 678 541.**
- 2. INTELLIGENCE INSPECTOR,
SQUAD NO.IV,
DEPARTMENT OF COMMERCIAL TAXES,
MATTANCHERRY AT MINI CIVIL STATION,
ALUVA - 683 101.**

BY GOVERNMENT PLEADER SRI.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 34597 of 2015 (Y)

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : COPY OF REGISTRATION CERTIFICATE ISSUED BY THE
1ST RESPONDENT DATED 29.6.2007.
- EXT. P2 : COPY OF DELIVERY NOTE OF THE PETITIONER TO M/S.MARDEC
R.K.GOLDEN CRUMB, EDAYAR DATED 14.11.2015.
- EXT. P3 : COPY OF NOTICE IN FORM NO.17A ISSUED BY THE 2ND RESPONDENT
DATED 15.11.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.34597 of 2015

.....
Dated this the 17th 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.P3 notice issued to him detaining a consignment of scrap rubber 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.P3 detention notice, it is seen that the objection of the respondents is essentially that the delivery note that accompanied the goods was dated 14.11.2015 and there was some over writing in the date written. Counsel for the petitioner would submit that the date in the delivery note was initially written as 15.11.2015 which was a mistake and it is corrected to read as 14.11.2015. It is pointed out that the detention of the goods was only

on 15.11.2015 and at the time of detention there was a delivery note that accompanied the transportation of the goods. It is also pointed out that the petitioner is a registered dealer in the State.

(ii) Taking note of the said submission of counsel for the petitioner, 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.P3 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

