

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. 35019 of 2015 (B)

PETITIONER(S):

**M/S. PRODAIR PRODUCTS INDIA PRIVATE LIMITED,
BPCL KOCHI REFINERY, AMBELAMEDU P.O.,
ERNAKULAM-682 303, REPRESENTED BY ITS
AUTHORISED SIGNATORY MR.HEMEN KHOKHANI.**

**BY ADVS.SRI.A.KUMAR,
SRI.P.J.ANILKUMAR,
SMTG.MINI,
SRI.P.S.SREE PRASAD.**

RESPONDENT(S):

**THE INTELLIGENCE INSPECTOR,
SQUAD NO.IV, ERNAKULAM,
CAMP AT WALAYAR-678 624.**

BY GOVT. PLEADER SRI.R. RANJITH.

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE CERTIFICATE REGISTRATION DATED 17/09/2015.
- EXT.P2 COPY OF THE RETURN FOR SEPTEMBER 2015 DATED 23/10/2015.
- EXT.P3 COPY OF THE SALE INVOICE DATED 30/10/2015.
- EXT.P4 COPY OF THE FORM 8F DATED 04/11/2015.
- EXT.P5 COPY OF THE NOTICE DATED 05/11/2015.
- EXT.P6 COPY OF THE AWARDER RETURN FILED ELECTRONICALLY FOR THE PERIOD APRIL TO SEPTEMBER 2015.
- EXT.P7 COPY OF THE JUDGMENT REPORTED IN 27 VST 131.
- EXT.P8 COPY OF THE REPLY.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.35019 of 2015

Dated this the 19th day of November 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P5 detention notice issued to him detaining a consignment of Metering systems 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.P5 notice, it is seen that the objection of the respondent is essentially that the consignee was not authorised to make the

interstate purchase of the goods under transport. It is further pointed out that the business address and delivery was shown as C/o. BPCL, Ambalamedu, and it was therefore suspected that the consignee was engaged on works contract. Counsel for the petitioner would submit that the item that was being transported was a metering system, that was required for the purposes of metering the production in the plant of BPCL where, the petitioner was engaged in setting up the plant and machinery . He refers to Ext.P1 registration certificate issued to him which permits the petitioner to procure plant and machinery, in connection with his business. Taking note of the said submission of counsel for the petitioner, and the fact that the petitioner is a registered dealer within the State, I direct the respondent to release the goods and vehicle covered by Ext.P5 notice, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P5 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/