

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 35080 of 2015 (H)

PETITIONER(S):

**IBRAHIM. C.Y, M/S. E.C.Y. WOOD WORKS,
VII/415/F, MAIN ROAD, THIRUVANKULAM-682 305.**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI,
SRI.P.UNNIKRISHNAN (THRISSUR).**

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.V, DEPARTMENT OF COMMERCIAL TAXES,
KASARAGOD-671 121.**
- 2. THE INTELLIGENCE OFFICER, SQUAD NO.V,
DEPARTMENT OF COMMERCIAL TAXES,
KASARAGOD-671 121.**
- 3. THE COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES,
KVAT CIRCLE-1, TRIPUNITHURA-682 301.**

BY GOVT. PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE REGISTRATION CERTIFICATE UNDER KERALA
VALUE ADDED TAX TIN NO.32071037973 DATED 15/12/2008
ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.P2 COPY OF THE INVOICE NO.12 DATED 09/11/2015 ISSUED BY
THE SELLER TO THE PETITIONER.
- EXT.P3 COPY OF THE E-PAYMENT IN FORM 8F AMOUNT TO Rs.24,716/-
BEARING NO.32071037973/2015-16/1074924 DATED 17/11/2015
SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P4 COPY OF THE NOTICE OR. NO.436/15-16 DATED 17/11/2015
ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.35080 of 2015

.....
Dated this the 20th 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.P4 notice issued to him detaining a consignment of timber 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.P4 detention notice, it is seen that the objection of the respondents is essentially with regard to the value that was declared by the petitioner in respect of the consignment. According to the respondents the declared value of the goods was lower than the average market rate that was revealed on an enquiry conducted by the respondents. Counsel for the petitioner would submit that the detention notice does not give any reference

to the source of information of the respondents with regard to the average market value of the consignment. It is also stated that the petitioner is a registered dealer in the state.

(ii) Taking note of the said submission of counsel for the petitioner and finding that Ext.P4 detention notice does not disclose the basis for the information of the respondents with regard to the alleged value of the goods, I direct the 1st 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.P4 detention notice.

(iii) The 1st 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 1st respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

