

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. 35108 of 2015 (K)

PETITIONERS :

1. M/S. NO.1 TEXTILES,
REP. BY ITS PROPRIETOR HARILAL.K.V.,
CHANGANKARI BUILDING, 404, P.P.JOSE ROAD, XXVI,
CHANGANACHERRY-686 101
2. M/S. MANGALYA TEXTILES,
REP. BY ITS PROPRIETOR HARILAL.K.V.,
CENTRAL JUNCTION, CHANGANACHERRY, KOTTAYAM DIST.
3. M/S. PACHAYAPAA TEXTILES,
REP. BY ITS PROPRIETOR P. KRISHNAMOORTHY,
AGED 48 YEARS, S/O. PACHAYIL NADAR, T.B. ROAD,
KOTTAYAM-686 001

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S):

1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, WALAYAR-678 624
2. INTELLIGENCE INSPECTOR, SQUAD NO.VII,
COMMERCIAL TAXES, ERNAKULAM-682 031
3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAX CHECK POST, WALAYAR-678 624
4. THE COMMISSIONER, COMMERCIAL TAX CHECK POST,
VIKAS BHAVAN, TRIVANDRUM-695 033
5. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, GOVT. SECRETARIAT, TRIVANDRUM-695 001.

BY GOVERNMENT 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:**

sts

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REGISTRATION CERTIFICATE TIN NO.32050787253 DATED 17/9/15 OF 1ST PETITIONER.**
- P2 COPY OF TH REGISTRATION CERTIFICATE TIN. NO.32050783552 DATED 25/6/2007 OF 2ND PETITIONER.**
- P3 COPY OF THE REGISTRATION CERTIFICATE TIN NO.32050597465 DATED 22/5/2012 OF 3RD PETITIONER.**
- P4 COPY OF THE NOTICE ISSUED TO THE 1ST PETITIONER DATED 7/8/2015**
- P5 COPY OF THE NOTICE ISSUED TO THE 2ND PETITIONER DATED 7/8/2015**
- P6 COPY OF THE NOTICE ISSUED TO THE 3RD PETITIONER DATED 5/8/2015**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.35108 of 2015

.....
Dated this the 20th day of November, 2015

J U D G M E N T

The petitioners, who are registered dealer under the Kerala Value Added Tax Act are aggrieved by Exts.P4, P5 and P6 notices issued to them detaining a consignment of bedsheets that were being transported at the instance of the petitioners. In the writ petition, the petitioners are aggrieved by the insistence of the respondents that the petitioners 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 petitioners 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 Exts.P4, P5 and P6 detention notices, it is seen that the objection of the respondents is essentially with regard to the classification of the goods as declared by the petitioners. While the petitioners had declared the goods as bedsheets, in the 8F declaration filed by them the goods were declared as hand loom cloth/bed

sheets. The respondents therefore suspected an attempted evasion of tax. Counsel for the petitioners would submit that the item that was being transported was hand loom cloth/bed sheet and it was taxable at the rate of 1% as declared. It is also pointed out that the petitioners are registered dealers in the State. Taking note of the said submission as also the fact that the transportation of the goods was duly accompanied by valid documents as contemplated under the Kerala Value Added Tax Act, I direct the 1st respondent to release the goods and the vehicle under Exts.P4, P5 and P6 detention notices to the petitioners, on the petitioners furnishing a simple bond without surety for the security deposit amounts demanded therein.

(ii) The 1st respondent shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders, after hearing the petitioners, within two months from the date of receipt of a copy of this judgment.

(iii) The petitioners shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

