

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 35182 of 2015 (W)

PETITIONER:

**SPARK INTERIORS,
2ND FLOOR, CIVIL LINE ROAD,
PALARIVATTOM - 682 025,
REPRESENTED BY ITS PROPRIETOR
UMA ANIL KUMAR.**

**BY ADVS.SRI.RAJESH NAMBIAR
SRI.N.R.SAJ**

RESPONDENT:

**INTELLIGENCE OFFICER, SQUAD NO.III,
DEPT. OF COMMERCIAL TAXES,
MALAPPURAM AT KOTTAKAL, PIN - 670 982.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF THE NOTICE U/S 72(2) DATED 11.11.2015.
- EXT.P2(A) : TRUE COPY OF INVOICE NO'S 511354 DATED 31.10.15.
- EXT.P2(B) : TRUE COPY OF INVOICE NO'S 511356 DATED 31.10.15.
- EXT.P2(C) : TRUE COPY OF INVOICE NO'S 511397 DATED 31.10.15.
- EXT.P2(D) : TRUE COPY OF INVOICE NO'S 511283 DATED 31.10.15.
- EXT.P2(E) : TRUE COPY OF INVOICE NO'S 511340 DATED 31.10.15.
- EXT.P3(A) : TRUE COPY OF THE CORRESPONDING 8F DECLARATION
DATED 31.10.2015 IN RESPECT OF INVOICE NO.511354.
- EXT.P3(B) : TRUE COPY OF THE CORRESPONDING 8F DECLARATION
DATED 31.10.2015 IN RESPECT OF INVOICE NO.511356.
- EXT.P3(C) : TRUE COPY OF THE CORRESPONDING 8F DECLARATION
DATED 31.10.2015 IN RESPECT OF INVOICE NO.511397.
- EXT.P3(E) : TRUE COPY OF THE CORRESPONDING 8F DECLARATION
DATED 31.10.2015 IN RESPECT OF INVOICE NO.511340.
- EXT.P4 : TRUE COPY OF THE REPLY TO EXT. P1 NOTICE DATED 19.11.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.35182 OF 2015 (W)

Dated this the 21st day of November, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P1 notice issued to her, detaining a consignment of hardware, 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 appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

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.P1 notice, it is seen that the objection of the respondent is essentially with

regard to the classification of the goods under transportation. There is nothing in the notice however to indicate as to why the goods would merit classification in the manner suggested by the respondent. Counsel for the petitioner would point out that the petitioner is a registered dealer and that the transportation of the goods was accompanied by the documents mandated under the KVAT Act. Taking note of the said submission, I direct the respondent to release the goods and the vehicle subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P1 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, untrammelled by the observations in this judgment.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE