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. 35233 of 2015 (D)

PETITIONER:

M/S.ANNA ALUMINUM CO.(P) LTD.,
KIZHAKKAMBALAM, ALUVA, REPRESENTED
MANAGING DIRECTOR.

BY ADVS.SRI.ANIL D. NAIR
SRI.R.SREEJITH
SMT.O.A.NURIYA
KUM.SOUMYA PRAKASH
KUM.MEKHALA M.BENNY

RESPONDENT(S):
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1. **THE COMMERCIAL TAX OFFICER,**
   SPECIAL CIRCLE-II, ALUVA - 683 101.

2. **THE COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAX CHECK POST,
   BANGRA, MANJESHWAR - 671 121.

BY GOVERNMENT PLEADER SRI.R.RANJITH

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

mbr/

WP(C).No. 35233 of 2015 (D)

<u>APPENDIX</u>

<u>PETITIONERS' EXHIBITS:</u>

EXT. P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER.

EXT. P2 : TRUE COPY OF THE INVOICE NO.87 DATED 2.11.2015.

EXT. P3 : TRUE COPY OF THE NOTICE DATED 7.11.2015 ISSUED BY THE 2ND RESPONDENT.

<u>RESPONDENTS' EXHIBITS</u>: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.35233 of 2015

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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 Kerala Value Added Tax Act is aggrieved by Ext.P3 notice issued to him detaining a consignment of plastic bags that were 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 respondent is essentially with regard to the rate of tax applicable under the Kerala Value Added Tax Act in respect of the item that was transported. Counsel for the petitioner would point out that the petitioner purchases these items

interstate, and therefore, the rate of tax applicable when purchased against 'C' Forms issued by the petitioner is only 2% under the Central Sales Tax Act. 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, I direct the 2nd respondent to release the goods 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

mns/21.11.15