

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 1936

WP(C).NO. 35457 OF 2014 (T)

PETITIONER(S) :

C.NARAYANA PODUVAL
M/S. HARIPRIYA TRADERS, ARIYANNUR
THRISSUR DISTRICT - 680 102.

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENT(S) :

1. ASST. COMMISSIONER (ASSESSMENT)
COMMERCIAL TAXES SPECIAL CIRCLE, THRISSUR - 680 001.

2. COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHECK POST, MUTHANGA
WAYANAD DISTRICT - 673 592.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .NO. 35457 OF 2014 (T)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 - COPY OF INVOICE NO. 35 ISSUED BY THE PETITIONER DT. 26.12.14.

P2 - COPY OF DELIVERY NOTE OF THE PETITIONER DT. 26.12.14.

P3 - COPY OF DECLARATION IN FORM NO.8F OF THE PETITIONER DT.
26.12.14.

P3(A) - COPY OF UTILIZATION REPORT OF THE PETITIONER DT. 28.12.14.

P4 - COPY OF NOTICE IN FORM NO. 17A ISSUED BY THE 2ND RESPONDENT DT.
26.12.14.

P5 - COPY OF DELIVERY NOTE OF THE PETITIONER DT. 17.12.14.

P5(A) - COPY OF DELIVERY NOTE OF THE PETITIONER DT. 23.12.14.

P6 - COPY OF DECLARATION IN FORM NO. 8F OF THE PETITIONER DT.
18.12.14.

P6(A) - COPY OF DECLARATION IN FORM NO. 8F OF THE PETITIONER DT.
23.12.14.

P6(B)- COPY OF DECLARATION IN FORM NO. 8F OF THE PETITIONER 24.12.14.

P7 - COPY OF OBJECTION FILED BY THE PETITIONER DT. 27.12.14.

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.35457 of 2014

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Dated this the 6th day of January, 2014

JUDGMENT

Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P4 notice issued to him detaining a consignment of arecanut that was being transported from Kerala to Karnataka at his instance. 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. Heard Sri.Harisankar V.Menon, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, 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) In view of the fact that the transportation of the goods was not covered by valid documents as prescribed under the KVAT Act, the detention of the goods in transit cannot be said to be illegal.

(ii) Considering the fact, however, that the petitioner is a

registered dealer and there is no threat of evasion of tax, the respondents shall release the goods covered by the detention notice on the petitioner furnishing a simple bond without sureties for the amount demanded in Ext.P4 notice.

(iii) The respondents 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 respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

