IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 35540 of 2014 (N)

PETITIONER(S):

M/S. JAI HIND TRADERS
29/621 K, JAIN TOWER, III FLOOR
VYTTILA, ERNAKULAM
KOCHI-6820016 REPRESENTED BY ITS AUTHORISED SIGNATORY
SRI. PRADEEP KUMAR SHANTILAL.

BY ADVS.SRI.R.MOHANDAS
SRI.R.KISHORE KUMAR (MATTANCHERRY)
SRI.V.K.SHAMUSUDHEEN
SRI.MANOJ KUMAR.M

RESPONDENT(S):

INTELLIGENCE INSPECTOR
SQUAD NO.IV
OFFICE OF THE INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES, PALAKKAD-678001.

BY GOVERNMENT PLEADER SMT.SHOBANA ANNAMMA EAPPAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 35540 of 2014 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER DATED 30.1.2008.

EXHIBIT P2: TRUE COPY OF THE INVOICE OF THE SUPPLIER BEARING NO.3934 DATED 26.12.2014.

EXHIBIT P3: TRUE COPY OF THE E SUGAM ONLINE DECLARATION OF SUPPLIER BEARING NO.50948815187 DATED 26.12.2014.

EXHIBIT P4: TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT DATED 27.12.2014 BEARING VC/IV/400/14-15.

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.35540 of 2014

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Dated this the 5th day of January, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P4 detention notice issued by the respondents under the Kerala Value Added Tax Act. The case of the petitioner is that the vehicle was intercepted at a point beyond that shown as destination in the transport documents and that the petitioner had made arrangements for making available the documents to support the further transportation, from the place shown as destination in the transport documents that were carried during the course of the first leg of transportation. In Ext.P4 notice, an amount of Rs.89,250/- is seen demanded towards security deposit for the discrepancy noticed in the transport documents at the time of interception of the vehicle.

2. I have heard the learned Government Pleader who would submit that at the time of interception of the vehicle, the vehicle was not seen carrying any document which supported a transportation from Kanjikode to Thrissur. It is under those circumstances, that the vehicle was detained.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I am of the view

that insofar as at the time of inspection of the vehicle, it was not found to be in possession of the documents specified in the Kerala Value Added Tax Act and Rules for covering the transportation of goods, the detention cannot be said to be illegal. Taking note however of the fact that the petitioner is a registered dealer and that in the writ petition, he has produced material to suggest that there was no intention to evade payment of tax, I am inclined to permit a release of the goods subject to the petitioner depositing 50% of the amount demanded as security deposit in Ext.P4 notice and furnishing a bond without surety to the respondent for the balance amount. On the petitioner complying with the said condition, the respondent shall release the goods and the vehicle and thereafter, transfer the files to the adjudicating authority for an adjudication in the matter. The adjudicating authority shall pass orders within a period of two months from the date of receipt of a copy of this judgment and after hearing the petitioner. To enable the adjudicating authority to do so, the petitioner shall produce a copy of the writ petition along with a copy of this judgment before the said authority.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/