

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937**

**WP(C).No. 35325 of 2015 (M)**  
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**PETITIONER :**  
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**SUGESH.S.R., AGED 33 YEARS,  
WELL WORTH FURNITURE, SS NIVAS, AP VI/1941,  
GANDHI SMARAKAM, PERUMKUZHI, CHIRAYINKEEZHU TALUK,  
THIRUVANANTHAPURAM-695 305**

**BY ADVS.SRI.LATHEESH SEBASTIAN  
SRI.M.FATHAHUDEEN**

**RESPONDENT(S):**  
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- 1. STATE OF KERALA,  
REPRESENTED BY SECRETARY TO GOVERNMENT,  
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM-695 001**
- 2. COMMISSIONER OF COMMERCIAL TAXES,  
COMMERCIAL TAXES DEPARTMENT, TAX TOWERS,  
KARAMANA.P.O., THIRUVANANTHAPURAM-695 004**
- 3. INTELLIGENCE OFFICER, SQUAD NO.II,  
DEPARTMENT OF COMMERCIAL TAXES, ATTINGAL,  
THIRUVANANTHAPURAM-695 101**
- 4. INSPECTING ASSISTANT COMMISSIONER,  
INTELLIGENCE, THIRUVANANTHAPURAM,  
COMMERCIAL TAX DEPARTMENT, THIRUVANANTHAPURAM-695 001**
- 5. SUB INSPECTOR OF POLICE,  
ATTINGAL POLICE STATION, THIRUVANANTHAPURAM-695 101**

**BY GOVERNMENT PLEADER SRI.R.RANJITH**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 23-11-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**sts**

**WP(C).NO.35325/2015**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

- P1 COPY OF THE VAT REGISTRATION CERTIFICATE**
- P2 COPY OF THE SHOW CAUSE NOTICE**
- P3 COPY OF THE REPLY DATED 17/11/2015**
- P4 COPY OF THE MONTHLY RETURNS SUBMITTED BY THE PETITIONER ON 17/11/2015 FOR THE MONTH OF SEPTEMBER, 2015.**
- P4(A) COPY OF THE MONTHLY RETURNS SUBMITTED BY THE PETITIONER ON 17/11/2015 FOR THE MONTH OF OCTOBER, 2015.**

**RESPONDENT'S EXHIBITS: NIL**

**/TRUE COPY/**

**P.S.TO JUDGE**

**sts**

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C).NO.35325 OF 2015 (M)**  
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**Dated this the 23<sup>rd</sup> 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.P2 notice issued to him, detaining a consignment of teak wood round logs, that was 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 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.P2 notice, it is seen that the objection of the respondents is essentially that the petitioner had defaulted in filing monthly returns in the

past months. Counsel for the petitioner would produce as Exts.P4 and P4(a), the monthly returns pertaining to the months of September and October, 2015, to show that the returns for the said months were filed along with the payment of tax for the said months. It is also pointed out that the goods under transportation were purchased from the Forest Depot after payment of tax, and, therefore, there is no dispute with regard to the tax liability in respect of the goods transported. It is also submitted that the petitioner is a registered dealer within the State. Taking note of the said submission of counsel for the petitioner, I direct the 3<sup>rd</sup> 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.P2 notice, before the 3<sup>rd</sup> respondent.

(ii) The 3<sup>rd</sup> 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 3<sup>rd</sup> respondent.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**