

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. 35430 of 2015 (C)

PETITIONER(S) :

**SHRI.O.N.PRAKASAN,
PROPRIETOR, M/S.GOKUL ENTERPRISES,
HEAD OFFICE AT RAJEEV NAGAR, PALLIKKUNNU,
KANNUR- 670 004.**

**BY SRI.T.M.SREEDHARAN (SENIOR ADVOCATE)
ADVS. SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN**

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX OFFICER, IIIRD CIRCLE,
KANNUR- 670 001.**
- 2. THE INTELLIGENCE OFFICER,
SQUAD NO.III, DEPARTMENT OF COMMERCIAL TAXES,
MALAPPURAM AT KOTTAKKAL- 676 503.**
- 3. M/S.A.C.B. HARWARES,
N.H.ROAD, EDARIKODE, KOTTAKKAL,
MALAPPURAM DISTRICT- 676 503.**

R1 & R2 BY GOVERNMENT PLEADER SMT.LILLY.K.T

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

Msd.

WP(C).No. 35430 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE COPY OF THE CERTIFICATE OF REGISTRATION
NO.32120722405-C DATED 06.06.2007 ISSUED BY
THE 3RD RESPONDENT.**

**EXHIBIT P2: TRUE COPY OF THE INVOICE NO.1138 DATED 14.11.2015 ISSUED
BY THE PETITIONER.**

**EXHIBIT P3: TRUE COPY OF THE NOTICE DATED 18.11.2015 IN FORM NO.17A
ISSUED BY THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 35430 of 2015

Dated this the 23st day of November, 2015

JUDGMENT

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 NC Thinner 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 respondent.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P3 notice, it is seen that the objection of the respondent is essentially that the goods that have been transported under cover of an invoice dated 14.11.2015, were detained only on 18.11.2015. It was therefore suspected that there was multiple transportation using the same documents. Counsel for the petitioner would submit

that although the invoice was drawn up on 14.11.2015, the goods could be transported only on 18th morning and it was therefore, that the goods had reached the point of detention only by 12.55 hours on 18.11.2015. It is also pointed out that the petitioner is a registered dealer in the State. Taking note of the said submission, and finding that the transportation of the goods was covered by documents contemplated under the KVAT Act, I direct the 2nd respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the notice, before the 2nd respondent.

(ii) 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 2nd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE