

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. 35464 of 2015 (G)

PETITIONER :

**GATI KINTETSU EXPRESS PVT. LTD.,
B. NO. XI/66B, ETTEKKAR
N. EDATHALA P.O., CHOONDY
ALUVA, ERNAKULAM – 683 564
BRANCH MANAGER SRI. SAJAN JOSEPH
AGED 47 YEARS, S/O. LATE K.S. JOSEPH.**

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S) :

- 1. THE INTELLIGENCE INSPECTOR,
SPECIAL SQUAD, COMMERCIAL TAXES,
PALAKKAD – 678 624.**
- 2. THE COMMERCIAL TAX OFFICER
COMMERCIAL TAXES, SPECIAL SQUAD
COMMERCIAL TAXES, PALAKKAD – 678 624.**
- 3. INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES CHECK POST
WALAYAR, PALAKKAD DIST.- 678 624.**
- 4. INSEPCTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES, THRISSUR – 680 001.**
- 5. COMMERCIAL TAX OFFICER
COMMERCIAL TAX OFFICE, NORTH PARUR.**
- 6. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
TAXES DEPARTMENT, GOVT. SECRETARIAT
TRIVANDRUM - 695 001.**

R1 TO R6 BY GOVT. PLEADER SMT. K.T. LILLY

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

Mn

...2/-

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APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE NOTICE NO. VC/SP 378/2015 – 16 DT. 15/11/2015.

EXT.P2 COPY OF THE NOTICE NO. VC/SP 379/2015 – 16 DT. 15/11/2015.

EXT.P3 COPY OF THE NOTICE NO. VC/SP 380/2015 – 16 DT. 15/11/2015.

EXT.P4 COPY OF THE NOTICE NO. VC/SP 381/2015 – 16 DT. 15/11/2015.

EXT.P5 COPY OF THE NOTICE NO. VC/SP 384/2015 – 16 DT. 15/11/2015.

EXT.P6 COPY OF THE NOTICE NO. VC/SP 382/2015 – 16 DT. 15/11/2015.

EXT.P7 COPY OF THE NOTICE NO. VC/SP 383/2015 – 16 DT. 15/11/2015.

EXT.P8 COPY OF THE FORM 8F DECLARATION DT. 8/11/2015 AS EXT.P1.

EXT.P9 COPY OF THE FORM 8F DECLARATION DT. 8/11/2015 AS EXT.P2.

EXT.P10 COPY OF THE FORM 8F DECLARATION DT. 3/11/2015 AS EXT.P3.

EXT.P11 COPY OF THE FORM 8F DECLARATION DT. 15/11/2015 AS EXT.P4.

EXT.P12 COPY OF THE FORM 8F DECLARATION DT. 13/11/2015 AS EXT.P5.

EXT.P13 COPY OF THE FORM 8F DECLARATION DT. 11/11/2015 AS EXT.P6.

(Contd...)

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**EXT.P14 COPY OF THE CERTIFICATE OF REGISTRATION ISSUED TO THE
PETITIONER DT. 24/12/2011.**

EXT.P15 COPY OF THE LIST OF CONSIGNEES WITH THEIR TIN.

**EXT.P16 COPY OF THE LIST SHOWING THE 8F AND VEHICLE ON WHILE THE
GOODS WERE DECLARED AT CHECK POST.**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 35464 of 2015

Dated this the 23st day of November, 2015

JUDGMENT

The petitioner, who is a registered transporting agency under the Kerala Value Added Tax Act, is aggrieved by Exts.P1 to P7 notices issued to him detaining a consignment of various articles that were 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 Exts.P1 to P7 notices, it is seen that the objection of the respondent is essentially with regard to the fact that the items were seen transported without any accompanying documents.

Counsel for the petitioner would submit that the necessary declarations in electronic format that had to accompany the goods were uploaded on the KVATIS Software for a week in advance, but the vehicle for transportation was obtained only much later, and it was therefore, that there was a time lag between the filing of declaration and the transportation of the goods. It is stated that the petitioner is registered as a transporting agency under the KVAT Act. On a consideration of the said submission of counsel for the petitioner, but finding that the goods were being transported without any accompanying documents as prescribed under the KVAT Act, I direct the 1st respondent to release the goods and the vehicle covered by the detention notices, to the petitioner, on the petitioner paying 30% of the security deposit amount (excluding penalty) demanded in Exts.P1 to P7 notices and furnishing a simple bond without sureties for the balance security deposit amount demanded in the notices, before the 1st respondent.

(ii) The 1st 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 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE