

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

WP(C).No. 35504 of 2015 (K)

PETITIONER :

**QUALITY MACHINES, AND SPARES,
REPRESENTED BY IS MANAGING PARTNER
P.K. PRADEEPAN, AGED 52 YEARS, J.S. COMPLEX,
OPPOSITE TEMPLE, VALAJAMBALAM,
CHITTOOR ROAD, ERNAKULAM- 682016.**

**BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA**

RESPONDENTS :

- 1. THE INTELLIGENCE INSPECTOR, SQUAD NO. V.,
COMMERCIAL TAXES CHECK POST,
BANGRA MANJESHWAR - 671323.**
- 2. THE INTELLIGENCE INSPECTOR, SQUAD N. III,
COMMERCIAL TAXES DEPARTMENT,
ERNAKULAM - 682016.**

BY GOVERNMENT PLEADER SMT. LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE CERTIFICATE OF REGISTRATION UNDER THE KVAT ACT
ISSUED TO THE PETITIONER DT 7/5/2007.
- P2: COPY OF INVOICE NO. 44 ISSUED BY J/S. M.K. ARC INDUSTRIES TO THE
PETITIONER DT 3/8/2015.
- P3: COPY OF THE TRANSACTION SLIP RELATING TO EXHIBIT P2 INVOICE
DT 3/8/2015.
- P4: COPY OF NOTICE NO. OR 240/15-16 ISSUED BY THE R1 TO THE PETITIONER
DT 6/8/2015.
- P5: COPY OF THE LETTER SUBMITTED BY THE PETITIONER TO THE R1
DT 10/8/2015.
- P6: COPY OF THE CERTIFICATE NO. 32070359305C/2015 ISSUED BY ASSISTANT
COMMISSIONER, SPECIAL CIRCLE II, ERNAKULAM TO THE PETITIONER
DT 9/11/2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.35504 of 2015

Dated this the 24th day of November 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P4 detention notice issued to him detaining a consignment of Welding Transformer Regulator, 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 for the petitioner and also 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) On a perusal of Ext.P4 notice, it is seen that the objection of the respondent is essentially that the petitioner did not have the authorisation to effect

the interstate purchase of the commodity that was being transported. Counsel for the petitioner would submit that his registration certificate under the CST Act clearly shows that he was authorised to purchase the said item. This aspect is also seen certified by the assessing authority by Ext.P6 certificate. Taking note of the said submission of counsel for the petitioner, and finding that the transportation of the goods was otherwise in order as contemplated under the KVAT Act, I direct the respondents to release the goods covered by Ext.P4 notice, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P4 notice, before the respondents.

(ii) 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.

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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