

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

WP(C).No. 35510 of 2015 (K)

PETITIONER(S) :

**SAHIR CHALIL, AGED 35 YEARS,
S/O.UMMERKUTTY, RESIDING AT 'SAINABAS', AZAD ROAD,
NR. MUBARAK MASJID, P.O KANNUR CITY, KANNUR TALUK,
KANNUR DISTRICT.**

BY ADV. SRI.T.MANOJ KUMAR

RESPONDENT(S) :

- 1. INTELLIGENCE OFFICER,
COMMERCIAL TAX DEPARTMENT, SQUAD NO.1, THALASSERY,
KANNUR DISTRICT- 670 101.**
- 2. COMMERCIAL TAX OFFICER,
1ST CIRCLE, COMMERCIAL TAX DEPARTMENT, KANNUR- 670 001.**
- 3. STATE OF KERALA,
REPRESENTED BY COMMISSIONER , SALES TAX DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 001.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 35510 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF
THE VEHICLE NO.KL-13-AB-9139.**

**EXHIBIT P2: TRUE COPY OF THE NOTICE U/S 69(1) OF THE KVAT ACT ISSUED
BY RESPONDENT NO.1 TO PETITIONER.**

**EXHIBIT P3: TRUE COPY OF THE OBJECTION STATEMENT DATED 25-08-2015
SUBMITTED BY PETITIONER BEFORE RESPONDENT NO.1.**

**EXHIBIT P4: TRUE COPY OF THE ORDER PASSED BY RESPONDENT NO.1
DATED 08-10-2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.35510 of 2015

.....
Dated this the 26th day of November, 2015

J U D G M E N T

The petitioner who is the owner of a vehicle bearing registration No.KL-13-AB-9139, which was used for transportation of a consignment of plastic carry bags and plastic packing materials, is aggrieved by the continued detention of the vehicle by the respondents notwithstanding the fact that adjudication proceedings pursuant to the detention of the goods and the vehicle culminated in Ext.P4 order directing a detention of only the goods.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the 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 find that, pursuant to the detention notice that was issued to the petitioner in respect of the goods carried in the vehicle aforementioned, the Intelligence Inspector, on finding that the petitioner had not paid the security deposit that was demanded in the detention notice, proceeded to pass Ext.P4 order whereby he directed a seizure of the goods on account of the failure of the petitioner to remit the security deposit demanded. There is no order passed detaining the vehicle pursuant to the detention notice issued to the

petitioner. Under the said circumstances, I am of the view that, the respondents cannot detain the vehicle belonging to the petitioner, and the same shall be released to him forthwith on the petitioner producing a copy of this judgment before the respondents. As regards Ext.P4 order, to the extent it detains the goods of the petitioner, I relegate the petitioner to his alternate remedy under the kerala Value Added Tax Act against Ext.P4 order. I make it clear that, if the goods are still in the vehicle, the respondents shall permit the petitioner to unload the goods from the vehicle, at his risk and cost, prior to releasing the vehicle to him.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

