IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

WP(C).No. 35653 of 2015 (F)

PETITIONER(S):

M/S. VALIYAKULANGARA CEMENTS, XXIV/250,
HILL PALACE ROAD, TRIPUNITHURA,
PIN-682 301, REPRESENTED BY ITS
PARTNER MR.PAUL JAMES.

BY ADV. SRI.K.S.HARIHARAN NAIR.

RESPONDENT(S):

THE INTELLIGENCE INSPECTOR,
SQUAD NO.1, COMMERCIAL TAXES,
MATTANCHERY AT ALUVA, PIN-683 101.

BY GOVT. PLEADER SRI.R. RANJITH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 35653 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	COPY OF THE CERTIFICATE OF REGISTRATION.
EXT.P1A	COPY OF THE KVAT RETURN FOR THE MONTH OCTOBER 2015 DATED 19/11/2015.
EXT.P2	COPY OF THE SALES INVOICE DATED 24/11/2015.
EXT.P3	COPY OF THE DELIVERY NOTE DATED 24/11/2015.
EXT.P4	COPY OF THE SALE BILL DATED 24/11/2015 OF THE PETITIONER.
EXT.P5	COPY OF THE NOTICE DATED 24/11/2015.
EXT.P6	COPY OF THE NOTICE DATED 24/11/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No.35653 of 2015
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Dated this the 25th day of November, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P5 notice issued to him detaining a consignment of Cement 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.P5 notice, it is seen that the objection of the respondent is essentially that the goods that were consigned to Kolenchery where seen proceeding to Tripunithura, without the subsequent sale bill of the consignee. Counsel for

the petitioner would submit that the sale bill of the consignee was also entrusted with the driver, but he did not produce the same before the detaining authority. It is submitted that the petitioner is a registered dealer in the State and the goods had suffered tax on the original transaction to Kolencherry. Taking note of the said submission, but finding that the transportation pursuant to the subsequent sale transaction was not supported by any valid document as prescribed under the KVAT Act, I direct the respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on the petitioner paying 30% of the security deposit amount demanded in Ext.P5, by way of advance tax. The petitioner shall remit the said amount by way of advance tax and produce proof of such remittance before the respondent for obtaining the release of goods.

(ii) The respondent is directed to transfer the files to the assessing authority in terms of Section 47(5) of the KVAT Act.

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /25.11.15