

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. 35730 of 2015 (M)

PETITIONER(S):

**M/S. STAR ENTERPRISES, XIX/515,
MARKET ROAD, ALUVA-683 101,
REPRESENTED BY ITS MANAGING PARTNER,
K.A. JOHNY.**

**BY ADVS.SRI.K.J.ABRAHAM,
SRI.NIKHIL JOHN.**

RESPONDENT(S):

**THE INTELLIGENCE INSPECTOR,
SQUAD NO.III, DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM-682 015.**

BY GOVT. 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:**

rs.

WP(C).No. 35730 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE REGISTRATION CERTIFICATE NO.70132
DATED 17/04/2008.
- EXT.P2 COPY OF THE FORM 15 DELIVERY NOTE NO.3607997
DATED 24/11/2015.
- EXT.P3 COPY OF THE NOTICE NO.OR III/857/15-16 DATED 24/11/2015.
- EXT.P4 COPY OF THE TAX INVOICE NO.3310 DATED 24/11/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.35730 of 2015

Dated this the 26th day of November 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P3 detention 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 for the petitioner and also the learned Government Pleader for the respondent.

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.P3 notice, it is seen that the objection of the respondent is essentially that the transportation of the goods was covered by a delivery note, in which the time of commencement

of the journey was not recorded. Counsel for the petitioner would submit that this was an inadvertent omission and inasmuch as both the consignor and the consignee are registered dealers within the State and the necessary documents that have to accompany the transportation of the goods, was there, the technical objection raised by the respondent could not be a reason for detention of the goods. Taking note of the said submission of counsel for the petitioner, and finding that the transportation of the goods was otherwise in order, I direct the respondent to release the goods and vehicle covered by Ext.P3 notice, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P3 notice, before the respondent.

(ii) Taking note of the submission of counsel for the petitioner that the original documents of the vehicle have also been detained by the respondent, there will be a direction to the respondent to release the said documents also along with the vehicle and goods, pursuant to this judgment.

(iii) The 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.

(iv) 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

sm/