

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 36133 of 2015 (N)

PETITIONER :

**MATHER BROTHERS
MARKET ROAD, JEW STREET,
ERNAKULAM- 682 035
REPRESENTED BY ITS MANAGING PARTNER
NOOR MOHAMMED MATHER**

**BY SENIOR ADVOCATE SRI. V.V. ASOKAN
SRI.R.JAIKRISHNA**

RESPONDENT(S) :

- 1. ASSISTANT COMMISSIONER (ASSESSMENT)
SPECIAL CIRCLE - I, COMMERCIAL TAXES
ERNAKULAM – 682 015.**
- 2. INTELLIGENCE OFFICER,
SQUAD NO1, DEPARTMENT OF COMMERCIAL TAXES
MATTANCHERRY AT ALUVA, MINI CIVILSTATION
ALUVA - 683 101**
- 3. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECKPOST, WALAYAR - 678 624**
- 4. INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, MATTACHERRY AT ALUVA
MINI CIVIL STATION, ALUVA - 683 101.**

R1 TO R4 BY GOVT. PLEADER SRI. R. RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 36133 of 2015 (N)

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT P1 TRUE COPY OF INVOICE FOR RS. 40898/- DATED 21-05-2015.

**EXHIBIT P2 TRUE COPY OF THE DETENTION NOTICE ISSUED BY THE 3RD
RESPONDENT DATED 31-05-2015.**

EXHIBIT P3 TRUE COPY OF THE TRANSACTION SLIP DATED NIL.

EXHIBIT P3(a) TRUE COPY OF THE TRANSACTION SLIP DATED NIL.

**EXHIBIT P3(b) TRUE COPY OF THE PRINT OUT OF TRANSACTION DETAILS FROM
KVATIS BETWEEN 21-05-2015 TO 1-6-2015 DATED 01-06-2015.**

**EXHIBIT P4 TRUE COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER
BEFORE THE 3RD RESPONDENT DATED 08-06-2015.**

**EXHIBIT P5 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT DATED 30-06-2015.**

**EXHIBIT P5(a) TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER BEFORE THE 4TH RESPONDENT DATED 09-10-2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.36133 OF 2015 (N)

Dated this the 2nd day of December, 2015

J U D G M E N T

A consignment of hardware items that was being transported at the instance of the petitioner was detained by the respondents. Ext.P2 is the detention notice. 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 appearing for the petitioner and also the learned Government Pleader appearing 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.P2 notice, it is seen that the objection of the respondents is essentially that the invoice that accompanied the transportation of the goods showed a value of Rs.40,898/- as representing the value of the consignment, whereas in the Form 8F declaration that was filed by the petitioner, the amount

was shown only as Rs.28,978/-. Counsel for the petitioner would submit that the discrepancy in the Form 8F declaration arose on account of a non-recording of one of the transactions in the 8F declaration since the petitioner had split up the transaction in the invoice in two parts depending on the rate of tax that was applicable. It is pointed out that the petitioner is a registered dealer within the State and the transportation of the goods was accompanied by a valid document as contemplated under the KVAT Act. Taking note of the said submission of counsel for the petitioner, I direct the 2nd respondent to release the goods and the vehicle on the petitioner subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P2 notice, before the 2nd respondent.

(ii) The 2nd 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, untrammelled by the observations in this judgment.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 2nd respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE