

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. 36365 of 2015 (U)

PETITIONER :

**KANKANI STEELS AND FERRO ALLOYS
6/659, CHUTTIPARA, VENGODI P.O., ELAPPULLY
PALAKKAD
REPRESENTED BY ITS PARTNER RAM BABU
SON OF VISHNU NARAYANAN, AGED 27 YEARS
VENGODI P.O., ELAPPULLY, PALAKKAD.**

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S) :

- 1. THE INTELLIGENCE INSPECTOR
SQUAD NUMBER VI, COMMERCIAL TAXES
PALAKKAD, PIN – 678 001.**
- 2. THE ASSISTANT COMMISSIONER (ASSESSMENT)
COMMERCIAL TAX OFFICE, SPECIAL CIRCLE
PALAKKAD, PIN – 678 001.**

R1 & R2 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. 36365 of 2015 (U)

APPENDIX

PETITIONER'S EXHIBITS :

**EXT.P1 : COPY OF THE INVOICE NO. 1258 DATED 28.11.2015 ISSUED BY
M/S. SHASTAA STEELS PRIVATE LIMITED, PALAKKAD.**

**EXT.P2 COPY OF THE DELIVERY NOTE DATED 28.11.2015 ISSUED BY
M/S. SHASTAA STEELS PRIVATE LIMITED, PALAKKAD.**

**EXT.P3 COPY OF THE DELIVERY NOTE DATED 28 NOVEMBER, 2015 ISSUED
BY THE PETITIONER.**

**EXT.P4 COPY OF THE NOTICE ISSUED UNDER SECTION 47(2) OF THE KVAT
ACT BY THE IST RESPONDENT.**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.36365 of 2015

Dated this the 2nd day of December 2015

JUDGMENT

The petitioner is aggrieved by Ext.P4 detention notice issued to him detaining a consignment of TMT Bars, 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 as also the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P4 detention notice, it is seen that the objection of the respondents is essentially that the vehicle detained was found containing a quantity of 14.5 metric tons of TMT Bars as against the quantity of 3.5 metric tons,

that was declared in the delivery note. Counsel for the petitioner would submit that the discrepancy in the quantity arose on account of the fact that the vehicle was being taken for the purposes of weighment to the weighbridge and the exact quantity on board the vehicle could not be verified at that stage. The delivery note which accompanied the goods indicated the quantity, that was meant for the consignee of the petitioner and what was contained in the vehicle was a consignment that had been received by the petitioner without unloading the consignment at the premises of the petitioner. It is also stated that the petitioner is a registered dealer within the State and the transportation of the goods was otherwise accompanied by valid documents under the KVAT Act. Taking note of the said submission of counsel for the petitioner, but finding that there was a substantial difference between the quantity shown in the delivery note and the quantity detected in the vehicle, I am of the view that the detention cannot be said to be unjustified. Taking note of the fact that the petitioner is a registered dealer, I direct the 1st respondent to release the goods and the vehicle to the petitioner on the petitioner paying 30% of the security deposit amount demanded in Ext.P4 and furnishing a simple bond without sureties for balance amount demanded in Ext.P4 before the 1st respondent.

(ii) The 1st 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/