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. 36472 of 2015 (H)

PETITIONER(S):

HARITAGIRI TILES AND SANITARY,
AP-VI/74C, VEETTYPADI, MUTTIPPALAM,
PANAYI ROAD, ANNAKAYAM P.O.,
MALAPPURAM DISTRICT, REPRESENTED BY ITS
MANAGING PARTNER, T.MOHAMMED,
S/O.ABU T., AGED 42 YEARS.

BY ADV. SRI.K.RAKESH

RESPONDENT(S):

THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
THAMARASSERY, KOZHIKODE DISTRICT-673573.

BY GOVERNMENT PLEADER SMT.LILLY K.T.

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

PJ

WP(C).No. 36472 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: TRUE COPY OF THE NOTICE UNDER SECTION 47(2) OF THE KERALA VALUE ADDED TAX ACT, 2003 DATED 30/11/15

EXT.P-2: TRUE COPY OF THE INVOICE DATED 28/11/15 ISSUED BY THE PETITIONER TO ONE WAYANAD TILES DEPORT, KALEPTTA

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 36472 of 2015
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Dated this the 2nd day of December, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P1 notice issued to him detaining a consignment of Vitrified Floor Tiles, 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.P1 notice, it is seen that the only objection noted by the respondent is that the transportation of the goods was not accompanied by an original of the tax invoice and only a photocopy thereof was seen accompanying the goods. Counsel for the petitioner would submit that the documents that were contemplated under the KVAT Act, except

the transporter's copy of the invoice, were all accompanying the goods and the objection is only with regard to the photocopy of the invoice having accompanied the transportation of the goods. He produces as Ext.P2 the copy of the invoice, that accompanied the transportation of the goods, which contains all relevant particulars, that were required for the purposes of transporting the goods. It is also stated that the petitioner is a registered dealer in the State. 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 covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the notice, before the respondent.

(ii) 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.

(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 /2.12.15