IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

WP(C).No. 36583 of 2015 (W)

PETITIONER(S):

K. A. KUNJACHAN, MANAGING DIRECTOR,
M/S.BAKERS, CHAITHANYA, TC 41/1430 B,
KRISHNASWAMI ROAD, ERNAKULAM-682035.

BY ADV. SRI.P.NARAYANAN

RESPONDENT(S):
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1. INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, WALAYAR, PALAKKAD.

2. COMMERCIAL TAX INSPECTOR,
DEPARTMENT OF COMMERCIAL TAXES,
WALAYAR, PALAKKAD.

BY GOVERNMENT PLEADER SRI.R.RENJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 36583 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: COPY OF THE REGISTRATION CERTIFICATE DATGED 21/4/15

EXHIBIT P2: COPY OF PURCHASE INVOICE DATED 29/11/15 ISSUED IN RESPECT OF THE CONSIGNMENT

EXHIBIT P3: COPY OF THE DEMAND NOTICE NO.891/2/15-16 DATED 1/12/15.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 36583 of 2015

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Dated this the 3rd day of December, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P3 notice issued to him detaining a consignment of Papaya Candy 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.P3 notice, it is seen that the objection of the respondent is essentially with regard to the valuation of the goods that was being transported. The petitioner had declared the value of the goods in the invoice as also in the 8F declaration as Rs.3,67,200/-. According to the respondents, the value should have been

Rs.13,50,000/- going by the price of Rs.1,350/- per Box indicated on each of the Boxes. Counsel for the petitioner would submit that the value shown in the invoices that accompanied the transportation of the goods is the correct value and while the petitioner purchases the item at Rs.24/- per kilogram, he sells the products locally at Rs.36/- per kilogram. He also refers to certain invoices that are raised by the petitioner locally to substantiate this point. It is also submitted that the petitioner is a registered dealer in the State and that there is no dispute with regard to the transportation of the goods being accompanied by valid documents 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 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 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.

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

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /3.12.15