

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. 36589 of 2015 (W)

PETITIONER:

**M/S.RAJASREE MOTORS (P) LTD.,
2/393 (C), NH-47, KUNDANOOR JN.,
MARADU P.O., COCHIN, REPRESENTED BY
ITS' ASSISTANT GENERAL MANAGER - ACCOUNTS,
SRI.V.N.ANANTHA KRISHNAN.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD**

RESPONDENT:

**THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
WALAYAR - 678624.**

BY GOVERNMENT PLEADER SRI.R.RANJITH

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

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 28.6.2007.
- EXT. P2 : TRUE COPY OF THE TAX INVOICES BEARING NO.005116
DATED 15.10.2015.
- EXT. P2A : TRUE COPY OF THE TAX INVOICES BEARING NO.005119
DATED 15.10.2015.
- EXT. P2B : TRUE COPY OF THE TAX INVOICES BEARING NO.005149
DATED 15.10.2015.
- EXT. P3 : TRUE COPY OF THE COMMUNICATION RECEIVED FROM THE
CONSIGNOR.
- EXT. P4 : TRUE COPY OF THE 8F DECLARATION DATED 17.10.2015.
- EXT. P5 : TRUE COPY OF THE FIR DATED 20.10.2015 (RELEVANT PAGES).
- EXT. P6 : TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 47(2) OF THE
KVAT ACT DATED 20.11.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 36589 of 2015
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Dated this the 3rd day of December, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P6 notice issued to him detaining a consignment of Motor Cars 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.P6 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the transportation of the goods was not accompanied by original copies of the invoices and what was produced was only a photocopy of the invoices. Counsel for the petitioner would submit that while the original copy of the invoices were entrusted to the driver, the said copies together with

cash as also the keys of the cars, that were being transported, were stolen from the driver and in this connection a complaint has also been lodged with the Police as is evidenced by Ext.P5 document. It is stated that the details of invoices that accompanied the goods are indicated in the 8F declaration, that was uploaded in the KVATIS website and the consignor's copy of the invoices was also available with the consignor. Taking note of the said submission of counsel for the petitioner and finding that the petitioner has taken steps to lodge a complaint with the Police to report the fact of the missing articles, and finding that the transportation of the goods was otherwise in compliance with the provisions under the KVAT Act, as also the fact that the petitioner is a registered dealer, 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