

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 36714 of 2015 (L)

PETITIONERS :

**1. RAJESH KHAITAN, SHREE BABA STEELS,
15/513, CHITTUR MAIN ROAD,
VALARA NATTUKAL, PALAKKAD**

**2. KESAVAN, S/O. MANI, THODUKADU,
ALATHUR, PALAKKAD DISTRICT**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON**

RESPONDENTS :

**1. THE COMMERCIAL TAX OFFICER,
CHITTUR - 678101.**

**2. THE INTELLIGENCE INSPECTOR, SPECIAL SQUAD,
COMMERCIAL TAXES, PALAKKAD - 678 001.**

BY GOVERNMENT PLEADER SMT. LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 36714 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF INVOICE NO. 483 ISSUED BY THE VISHANT STEELS P. LTD.
PALAKKAD DT 01/12/2015.**
- P1(A): COPY OF INVOICE NO. 2167/ISSUED BY THE LAL STEELS PVT. LTD,
PALAKKAD DT 01/12/2015.**
- P1(B): COPY OF INVOICE NO. 1473 ISSUED BY THE SHRI TRADERS, PALAKKAD
DT 01/12/2015.**
- P2: COPY OF OF DELIVERY NOTE ISSUED BY THE VISHANT STEELS (P) LTD.
PALAKKAD DT 01/12/2015.**
- P2(A): COPY F DELIVERY NOTE ISSUED BY LAL STEELS PVT. LTD., PALAKKAD
DT 01/12/2015.**
- P2(B): COPY OF DELIVERY NOTE ISSUED BY SHRI TRADERS, PALAKKAD
DT 01/12/2015.**
- P3: COPY OF NOTICE IN FORM NO. 17A ISSUED BY THE R2 DT 01/12/2015.**
- P4: COPY OF NOTICE IN UNDER SECTION 69(1) ISSUED BY THE R2 DT 01/12/2015.**
- P5: COPY OF OBJECTION FILED BY THE 2ST PETITIONER BEFORE THE R2**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.36714 of 2015

.....
Dated this the 4th day of December, 2015

J U D G M E N T

A consignment of TMT Bars and Angles that was being transported at the instance of the 1st petitioner detained by the respondents along with the vehicle. Exts.P3 and P4 are the detention notice and penalty proposals. In the writ petition, the petitioners are aggrieved by the insistence of the respondents that the petitioners 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 petitioners and also the learned Government Pleader 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.P3 detention notice, it is seen that the objection of the respondents is essentially that the transportation of the goods was not accompanied by any valid document as contemplated under the Kerala Value Added Tax Act. Counsel for the petitioners would submit that the documents were in fact available with the driver of the vehicle and as a matter of fact, the check post authorities could not

have arrived at the split up of the quantity of material transported in the vehicle unless they saw the invoice that was carried by the driver which alone contained the split up of the quantity of material that was transported in the vehicle. It is pointed out that the 1st petitioner is a registered dealer and the 2nd petitioner is the owner of the vehicle.

(ii) Taking note of the said submission of counsel for the petitioners but finding that the transportation of the goods was not accompanied by valid documents as contemplated under the Kerala Value Added Tax Act, I direct the 2nd respondent to release the goods and the vehicle to the 1st and 2nd petitioner respectively, on the 1st petitioner paying 30% of the security deposit amount demanded in Ext.P3 and furnishing a simple bond without surety for the balance amount demanded therein before the 2nd respondent.

(iii) The 2nd respondent shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders, after hearing the petitioners, within two months from the date of receipt of a copy of this judgment.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

