

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. 36855 of 2015 (F)

PETITIONER(S) :

**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 IV, COMMERCIAL TAXES,
PALAKKAD, PIN - 678 001.**
- 2. THE ASSISTANT COMMISSIONER (ASSESSMENT) COMMERCIAL
TAX OFFICE, SPECIAL CIRCLE, PALAKKAD, PIN- 678 001.**

BY GOVERNMENT PLEADER SRI.R.RENJITH

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

Msd.

WP(C).No. 36855 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: A TRUE COPY OF THE INVOICE DATED 1 DECEMBER 2015 IN
RELATION TO THE VOTE TRANSACTION ISSUED BY VRVKP STEEL
INDUSTRIES, BANGALORE.**

**EXHIBIT P2: A TRUE COPY OF THE ADVANCE TAX UTILIZATION RECEIPT
ISSUED IN RESPECT OF THE CONSIGNMENT COVERED BY
EXHIBIT P1.**

**EXHIBIT P3: A TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 47(2) OF
THE KVAT ACT BY THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.36855 of 2015

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

J U D G M E N T

A consignment of iron and steel that was being transported at the instance of the petitioner was detained by the respondents. Ext.P3 is the detention notice. 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 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 goods that were seen consigned to the petitioner's premises were seen moving from the petitioners premises to another destination and that link of transportation was not accompanied by any valid documents as contemplated under the Kerala Value Added Tax Act. Counsel for the petitioner would submit that the goods after reaching the original

destination viz. the petitioner's premises, the petitioner suspected that there was a difference in the quantity of goods consigned to him, and therefore, he directed the vehicle to the nearest weighbridge for the purposes of ascertaining the actual weight of the consignment. It was during the course of that transportation that the goods were detained. 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, but finding that there was no document to cover the subsequent transportation after the vehicle reached the petitioner's premises, I find that the detention of the goods cannot be said to be unjustified.

(ii) I take note of the fact that the petitioner is a registered dealer and 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.P3 and furnishing a simple bond without surety for the balance amount demanded therein.

(iii) 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.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

