

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 37163 of 2015 (U)

PETITIONER(S) :

**THURUTHUMALI MUSTHAFA BEERAN,
M/S.PAREETH TIMBER INDUSTRIES, ALLAPRA P.O.,
BUILDING NO.882, ALLAPRA, PERUMBAVOOR, PIN- 683 542.**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SMT.K.P.RANI**

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, WALAYAR- 678 624.**
- 2. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAX CHECK POST, WALAYAR- 678 624.**
- 3. THE COMMERCIAL TAX OFFICER,
2ND CIRCLE, DEPARTMENT OF COMMERCIAL TAXES,
PERUMBAVOOR- 683 542.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE COPY OF THE REGISTRATION CERTIFICATE UNDER KERALA
VALUE ADDED TAX NO.32151330955 DATED 04.12.2015 ISSUED BY
THE 3RD RESPONDENT TO THE PETITIONER.**

**EXHIBIT P2: TRUE COPY OF THE PURCHASE ORDER DATED 20.11.2015
ISSUED BY THE BUYER TO THE PETITIONER.**

**EXHIBIT P3: TRUE COPY OF THE INVOICE NO.094 DATED 03.12.2015 ISSUED BY
THE PETITIONER TO THE CONSIGNEE.**

**EXHIBIT P4: TRUE COPY OF THE 8F DECLARATION NO.32151330955/2015-16/
1290619 DATED 03.12.2015 SUBMITTED BY THE PETITIONER.**

**EXHIBIT P5: TRUE COPY OF THE DELIVERY NOTE IN FORM 15
NO.321513/DN/36026/2015 DATED 03.12.2015 ISSUED BY
THE PETITIONER.**

**EXHIBIT P6: TRUE COPY OF THE NOTICE IN FORM 17A, BEARING
NO.OR/367/B/15-16 DATED 03.12.2015 ISSUED BY
THE 1ST RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.37163 of 2015

Dated this the 8th day of December 2015

JUDGMENT

A consignment of sawn timber, that was being transported at the instance of the petitioner was detained by the respondents. Ext.P6 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 appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

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 respondents is essentially with regard to the fact that while the petitioner had declared the item transported as packing cases,

the goods were found to be sawn sizes of timber of Jackwood and Aanjili. The respondents therefore suspected a possible evasion of tax. Counsel for the petitioner would submit that the items were being transported for the purposes of making packing cases against purchase orders placed by the consignee. I note however, that there was a difference in the nature of the goods, that was being transported and hence the detention on the part of the respondents cannot be said to be unjustified. Taking note of the fact that the petitioner is a registered dealer within the State, I direct the 1st respondent to release the goods and the vehicle to the petitioner on the petitioner paying 30% of the security deposit amount in Ext.P6 and furnishing a simple bond without sureties for balance amount demanded in Ext.P6 before the 1st respondent.

(ii) 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.

(iii) The petitioner shall produce a copy of this

judgment and a copy of the writ petition before
the 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/