

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. 37181 of 2015 (W)

PETITIONER(S):

**M/S.PATEL LALJI KIMJI & CO.,
(XVI/76) NEW XIV/72, A.M. ROAD,
PERUMBAVOOR-683 542,
REPRESENTED BY ITS PARTNER
MANOJ KUMAR P.R.**

BY ADV. SRI.P.N.DAMODARAN NAMBOODIRI.

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. ASSISTANT COMMISSIONER, SPECIAL CIRCLE-III,
DEPARTMENT OF COMMERCIAL TAXES,
COMMERCIAL TAX COMPLEX,
ERNAKULAM-682 015.**

BY GOVT. PLEADER SRI.R. RANJTIH.

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE REGISTRATION CERTIFICATE UNDER KERALA
VALUE ADDED TAX NO.32070435445C DATED 21/05/2005
ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXT.P2 COPY OF THE INVOICE NO.0433 DATED 03/12/2015
AMOUNTED TO RS.3,23,835/- ISSUED BY THE PETITIONER
TO THE CONSIGNEE.
- EXT.P3 COPY OF THE DELIVERY NOTE IN FORM 15 NO.320712/DN/11847/2015
DATED 03/12/2015 ISSUED BY THE PETITIONER.
- EXT.P4 COPY OF THE NOTICE NO.1/15-16 DATED 04/12/2015 ISSUED BY
THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P5 COPY OF THE MEASUREMENT SLIP ISSUED BY THE
1ST RESPONDENT TO THE PETITIONER.
- EXT.P6 COPY OF THE NOTICE NO.OR/369/B/15-16 DATED 04/12/2015
ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 37181 of 2015

Dated this the 8th day of December, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P6 notice issued to him detaining a consignment of Teak Wood Logs 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 alleged difference in quantity between what was declared and what was being transported. The respondents also have objection with regard to the value of the goods, that was being transported, stating that it was abnormally low, when compared

to the prevailing market value. Counsel for the petitioner would submit that the difference in measurements noted is only marginal and further there was nothing in the detention notice to suggest what the prevailing market value was. It is submitted that the petitioner is a registered dealer and the transportation was duly accompanied by the valid documents as contemplated under the KVAT Act. Taking note of the said submission of counsel for the petitioner, I direct the 1st 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 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