

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 37979 of 2015 (V)

PETITIONER :

**M/S. MAHINDRA AND MAHINDRA LTD.,
34/1128, BALAKRISHNA MENON ROAD, EDAPALLY P.O,
COCHIN, REPRESENTED BY ITS' SENIOR REGIONAL
SALES MANAGER, MR.KUNAL BHATE.**

**BY ADVS.SRI.A.KUMAR
SMT.G.MINI**

RESPONDENT :

**THE INTELLIGENCE INSPECTOR,
SQUAD NO.III, DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM-682 016.**

BY GOVERNMENT PLEADER SMT. LILLY.KT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 37979 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : TRUE COPY OF THE NOTICE DT 11-11-2015.

P2 : TRUE COPY OF THE INVOICE DT 3-11-2015 BEARING NO.9025751304.

P3 : TRUE COPY OF THE FORM 8F DECLARATION DT 5-11-2015.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.37979 of 2015
.....
Dated this the 16th day of December, 2015

J U D G M E N T

A Bolero Maxitruck, that was being driven down to a showroom in Palakkad from the manufacturing unit at Nashik, along with seven other like vehicles, was detained by the respondent. Ext.P1 is the detention notice. 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 for the petitioner and also the learned Government Pleader for the respondent.

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.P1 detention notice, it is seen that the objection of the respondent is essentially

that there were no documents as prescribed under the Kerala Value Added Tax Act accompanying the transport of the said goods vehicle. Counsel for the petitioner would submit that the documents pertaining to all the seven vehicles were carried by the lead vehicle and the said documents were presented before the check post authorities at the entry check post and it was noticed by the said check post authorities. He produces Exts.P2 and P3 documents in the writ petition to substantiate this fact. It is also stated that the petitioner is a registered dealer and that the vehicles in question were taken directly to the showroom in Palakkad where they are kept for sale purposes.

(ii) Taking note of the said submission of counsel for the petitioner and finding that the documents that accompanied the vehicles were sealed at the entry check post and further that the petitioner is a registered dealer in the State, I direct the respondent to release the vehicle to the petitioner, on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P1 detention notice.

(iii) 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.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE