

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. 38252 of 2015 (F)

PETITIONER(S):

**M/S.ISGEC HEAVY ENGINEERING LIMITED,
PREMISES OF KOCHI REFINERY,
AMBALAMUGHAL, KOCHI, REPRESENTED BY
ITS AUTHORISED SIGNATORY A.PRAGASAM.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMT.G.MINI
SRI.P.S.SREE PRASAD**

RESPONDENT(S):

- 1. THE INTELLIGENCE OFFICER,
SQUAD NO.3, MATTANCHERRY,
DEPT. OF COMMERCIAL TAXES,
MINI CIVIL STATION, ALUVA - 683 101.**
- 2. BHARAT PETROLEUM CORPORATION LIMITED,
POST BAG NO.2, AMBALAMUGAL,
KOCHI - 682 302.**

**R1 BY GOVERNMENT PLEADER SMT. LILLY K.T.
R2 BY ADV.SRI.K.I.MAYANKUTTY MATHER**

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

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: THE QUARTERLY RETURNS AS PROVIDED FOR WORKS CONTRACT FOR THE 1ST FROM APRIL 20015 TO JUNE 2015.

EXT.P2: THE QUARTERLY RETURNS AS PROVIDED FOR WORKS CONTRACT FOR THE 2ND QUARTER FROM JULY 2015 TO SEPTEMBER 2015.

EXT.P3: TRUE COPY OF THE COMMUNICATION DTD.2.6.2014 OF BPCL TO THE PETITIONER.

EXT.P4: TRUE COPY OF PURCHASE ORDER DTD.25.7.2013.

EXT.P5: TRUE COPY OF THE NOTICE DTD.2.12.2015.

EXT.P6; TRUE COPY OF THE REPLY DTD.7.12.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms v/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.38252 of 2015

Dated this the 16th day of December 2015

JUDGMENT

A consignment of Electrical goods and other items, that was being transported at the instance of the petitioner was detained by the respondent. Ext.P5 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 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.P5 notice, it is seen that the objection of the respondent is essentially

that the transportation of the goods was not accompanied by any documents, as prescribed under the KVAT Act. Counsel for the petitioner would submit that the goods were being transported after storage at the request of M/s.BPCL and the non-accompaniment of the goods by documents was an oversight. It is pointed out that the petitioner is registered dealer within the State. Taking note of the said submission of counsel for the petitioner, but finding that the transportation of the goods was not accompanied by any valid document, I find that the detention of the goods by the respondent cannot be said to be unjustified. Under the circumstances, I direct the respondent to release the goods and the vehicle covered by Ext.P5 detention notice, to the petitioner on the petitioner paying the security deposit amount demanded in Ext.P5 notice by way of advance tax. The petitioner shall effect payment of the advance tax and produce the proof of remittance of the same, before the respondent for obtaining the release of the goods.

(ii) 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.

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/