

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

WP(C).No. 38435 of 2015 (D)

PETITIONER(S) :

**B.S.VIJAYAN, PROPRIETOR,
M/S.ELMACTICS ENTERPRISES, VII/829 CB5,
AMBADKAR ROAD, BEHIND PARRUPURA DEVI TEMPLE,
KAKKANAD, KOCHI- 682 030.**

**BY ADVS.SMT.S.K.DEVI
SRI.SANTHOSH P.ABRAHAM**

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, KUNHIPPALLY,
CHAMBOLA, KOZHIKODE.**
- 2. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAX CHECK POST, KUNHIPPALLY,
CHAMBOLA, KOZHIKODE.**
- 3. THE ASSISTANT COMMISSIONER,
DEPARTMENT COMMERCIAL TAXES,
SPECIAL CIRCLE IV, ERNAKULAM, KOCHI- 682 014.**

BY GOVERNMENT PLEADER SRI.R.RENJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE COPY OF THE PURCHASE ORDER NO.EE/PO/15-16/891
DATED 03.10.2015.**

EXHIBIT P2: TRUE COPY OF THE INVOICE NO.15-16/R1/364 DATED 19.11.2015.

**EXHIBIT P3: TRUE COPY OF THE COVERING LETTER OF THE PETITIONER TO
THE SUPPLIER.**

**EXHIBIT P4: TRUE COPY OF THE TRANSACTION SLIP NO.320764/PA01/172138/
2015 DATED 19.11.2015.**

**EXHIBIT P5: TRUE COPY OF THE LORRY RECEIPT NO.21316806
DATED 21.11.2015.**

**EXHIBIT P6: TRUE COPY OF THE DETENTION NOTICE OR 169/15-16
DATED 08.12.2015.**

**EXHIBIT P7: TRUE COPY OF THE REQUEST NO.EE/ST/15-16/1160
DATED 12.12.2015 MADE BY THE PETITIONER BEFORE
THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 38435 of 2015

Dated this the 17th day of December, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P6 notice issued to him detaining a consignment of laboratory and scientific equipments 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 fact that the declaration submitted by the petitioner indicated that the goods were being transported from Delhi to Thalassery, whereas in the

transaction slip it was found that the goods were to be transported to Kakkanad-Kochi. The detention of the goods was at a time when the goods were en route to Thalassery, where the consignee did not have any branch or office. Counsel for the petitioner would submit that the invoice, as also the other documents that accompanied the transportation, clearly indicated that the goods were meant for delivery at Thalassery and it was consigned to the Parcel office of the transporter at Thalassery. It is also pointed out that the petitioner is a registered dealer in the State and that the goods were meant for supply at premises in Thalassery. Taking note of the said submission of counsel for the petitioner and finding that the transportation of the goods was otherwise in accordance with the provisions of the KVAT Act, 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