

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 30TH JUNE 2009 / 9TH ASHADHA 1931

WP(C).No. 18303 of 2009(G)

PETITIONER:

O.N. SUNIL KUMAR, PROPRIETOR,
M/S CHEERS TIMBER MERCHANT,
PINDIMANA P.O., KOTHAMANGALAM,
ERNAKULAM DISTRICT

BY ADV. MR. BOBBY JOHN
MR. P.N.DAMODARAN NAMBOODIRI

RESPONDENTS:

1. THE INTELLIGENCE INSPECTOR,
SQUAD NO II, COMMERCIAL TAXES,
ERNAKULAM

2. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAX OFFICE,
KOTHAMANGALAM

BY GOVERNMENT PLEADER MR. V. K. SHAMSUDHEEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/06/2009,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMACHANDRA MENON J.

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W.P. (C) No. 18303 of 2009  
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Dated, this the 30th day of June, 2009

JUDGMENT

Timber logs transported by the petitioner in the vehicle bearing No. KL7 S 5137 were intercepted by the first respondent on 29.6.2009 at odd hours in the night, when several discrepancies were brought to light including the non-compliance of statutory prescription for transporting the goods as well as undervaluation, as clearly dealt with in Ext.P3 notice issued under Section 47 (2) of the Kerala Value Added Tax Act.

2. The learned counsel for the petitioner submits that, the first defect is only of technical nature, which is strongly rebutted from the part of the learned Government Pleader appearing on behalf of the respondents. With regard to the contention raised from the part of the petitioner that the extent of undervaluation also is negligible, the contention is very much opposed from the part of the respondents asserting that it is a clear case of evasion of tax.

3. After hearing both the sides and considering the materials on record, this Court finds it fit and proper to have the vehicle as well as goods released, on condition that the petitioner remits 50 % of the liability cast upon him vide Ext.P3 and furnishes self bond for the balance amount. On satisfying the requirements as above, the vehicle

WP (C) No. 18303 of 2009

: 2 :

as well as the goods shall be released to the petitioner forthwith. It is made clear that, this will without prejudice to the right of the first respondent to finalize the adjudication proceedings, which shall be pursued and finalized, as expeditiously as possible, at any rate, within a period of six weeks from the date of receipt of a copy of this judgment.

The Writ Petition is disposed as above.

P. R. RAMACHANDRA MENON, JUDGE

kmd