

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.K.ABDUL REHIM

FRIDAY, THE 30TH OCTOBER 2009 / 8TH KARTHIKA 1931

WP(C).No. 30841 of 2009(A)

PETITIONER(S):

M/S. ENVIRONMENTAL PRODUCTS (INDIA) PVT. LTD.,
160/3, RAJANI HOUSE, OPP. DON BOSCO HIGH SCHOOL,
BORIVALI (WEST), MUMBAI, REPRESENTED BY
ITS AUTHORISED SIGNATORY A.A.SABU.

BY ADV. SRI.V.P.SUKUMAR
SRI.JAIRAM.V.MENON

RESPONDENT(S):

1. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, BANGRA MANJESWAR,
KASARGOD DISTRICT.
2. THE PRINCIPAL,
ILAHIA COLLEGE OF ENGINEERING & TECHNOLOGY,
MULAVOOR PO, MUVATTUPUZHA.

GOVERNMENT PLEADER SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/10/2009, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

C.K.ABDUL REHIM, J.

W.P.(C).No.30841 OF 2009

Dated this the 30th day of October, 2009

J U D G M E N T

1. Petitioner is aggrieved by detention of goods under transport and issuance of Ext.P3 notice under Section 47(2) of the Kerala Value Added Tax Act, 2003 (KVAT Act). Petitioner is a dealer at Mumbai engaged in the supply of environmental products. The consignment in question are machineries for water purifying system dispatched from Mumbai to the 2nd respondent, on the basis of specific order, for installation of the same at the premises of the college of the 2nd respondent. The transport was accompanied by a tax invoice, Ext.P1, in which it is evident that the sale was effected on collecting CST @ 12.5%. Contention of the petitioner is that the transport was also accompanied by certificate of ownership in Form No:16 issued by the 2nd respondent.

2. On a perusal of Ext.P3 notice, it is revealed that the sole reason for detention mentioned therein is that, the consignee is not a registered dealer under the KVAT Act, 2003. No transport is expected to be detained or no penalty under Section 47 can be imposed merely for the reason that the consignee is not a registered dealer. Any person who is not a registered dealer is also entitled for effecting inter-state

purchase of goods for own use on payment of tax due under the Central Sales Tax Act or under the Local Sales Tax Act, pertaining to the state from where such purchase is made.

3. However, I am not entering into any findings with respect to the question regarding attempt at evasion of payment of tax. It is a matter to be decided on finalisation of adjudication contemplated under Section 47. Considering the facts and circumstances I am of the opinion that continued detention of the goods is not warranted and the same can be released on the petitioner furnishing security bond.

4. In the result the writ petition is disposed of directing the 1st respondent to release the goods along with the vehicle detained under Ext.P3 notice on the petitioner furnishing a security bond in the format provided in the KVAT Rules, without sureties, for the value demanded as security deposit in Ext.P3 notice.

5. Competent authority under Section 47 is hereby directed to expedite the adjudication proceedings and to pass final orders thereon as early as possible, at any rate within a period of one month from the date of release of the goods.

C.K.ABDUL REHIM, JUDGE.

okb