

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 31ST DAY OF MAY 2016/10TH JYAISHTA, 1938

WP(C).No. 18820 of 2016 (B)

PETITIONER(S):

BENNY JACOB PARAVATTIL (PROPRIETOR),
ECO FRIENDLY PLASTICS,
V/444C-35, ANGAMALY - 683 572.

BY ADV. SRI.K.S.HARIHARAN NAIR.

RESPONDENT(S):

1. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, WALAYAR,
PALAKKAD- 678 624.
2. THE COMMERCIAL TAX OFFICER,
ANGAMALY - 683 572.
3. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAX CHECK POST,
WALAYAR, PALAKKAD - 678 624.
4. SRI RAM POLYMERS,
16-B, KATTEDAN, HYDERABAD - 500 077.

R1 TO R3 BY GOVERNMENT PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-05-2016, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 COPY OF KVAT REGISTRATION CERTIFICATE DATED 04-05-2016.
- P2 COPY OF PURCHASE ORDER DATED 02-05-2016.
- P3 COPY OF INVOICE NO.0195 DATED 06-05-2016 ISSUED BY THE 4TH RESPONDENT.
- P4 COPY OF E DECLARATION IN FORM 8F DATED 07-05-2016.
- P5 COPY OF NOTICE DATED 11-05-2016 ISSUED BY THE FIRST RESPONDENT.
- P6 COPY OF THE LETTER DATED 12.05.2016 SENT TO THE 4TH RESPONDENT.
- P7 COPY OF THE REVISED FORM SF DATED 12-05-2016.
- P8 COPY OF THE REPLY DATED 12-05-2016 SUBMITTED BEFORE THE 3RD RESPONDENT.
- P9 COPY OF THE CONFIRMATION ISSUED BY THE CONSIGNOR DATED 19-05-2016.
- P10 COPY OF THE REPLY DATED 20-05-2016 SUBMITTED BEFORE THE 1ST RESPONDENT.
- P11 COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT DATED 21-05-2016.
- P12 PHOTOCOPY OF THE JUDGMENT IN WP(C).NO.38688/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

A.M.SHAFFIQUE, J

W.P.C.No.18820 of 2016

Dated this the 31st day of May 2016

J U D G M E N T

Petitioner challenges Ext.P5 detention notice by which the consignment was detained by the respondents on the allegation that there is attempt to evade tax. According to the petitioner, the reason mentioned in Ext.P5 for detention is unsustainable and the petitioner has not attempted to evade tax. Petitioner is aggrieved by Ext.P5 to the extent he is called upon to furnish security deposit as a condition for release of the goods.

2. Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

3. It is stated in Ext.P5 as under:

“On verification of the accompanied documents with goods under transport the following objects are found.

As per 8 F declaration and accompanied invoice the consignee declared the goods as “Bags plastics” and claimed 5% taxable. But on physical verification with goods in presence of the driver, the actual goods under transport is Vest type plastic carry bag which taxable @ 20%. As per the

clarification No.C3/32239/12/CT dated 24-10-2013 under Section 94 of the Act it is clarified as 20% tax rate. Here the consignee deliberately misclassified the commodity as 5% tax rate goods instead of 20% rate of tax. So security deposit demanded for Rs.2,60,000/-."

4. The petitioner being a registered dealer, I am of the view that goods can be released to the petitioner on the following conditions:

(i) The goods mentioned in Ext.P5 shall be released to the petitioner on the petitioner furnishing a simple bond without sureties before the 3rd respondent.

(ii) The 3rd respondent shall complete the adjudication proceedings within a period of two months from the date of receipt of a copy of this judgment.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr