

New Caste Interiors Vs. the Assistant Commissioner (Works Contract)

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Court : Kerala

Decided On : Jan-11-2013

Judge : Honourable Mr.Justice Antony Dominic

Appellant : New Caste Interiors

Respondent : The Assistant Commissioner (Works Contract)

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE ANTONY DOMINIC FRIDAY, THE 11TH DAY OF JANUARY 2013 21ST POUSHA 193 WP(C).No. 981 of 2013 (W) ----- PETITIONER(S): ----- NEW CASTE INTERIORS DOOR NO.TMC XXII/ix BEHIND POORNATHRAYEESA TEMPLE TRIPUNITHURA COCHIN-682 301 REPRESENTED BY ITS MANAGING PARTNER K.B.SABU. BY ADV. SRI.R.MURALIDHARAN (AROO) RESPONDENT(S): ----- 1. THE ASSISTANT COMMISSIONER (WORKS CONTRACT) OFFICE OF THE DEPUTY COMMISSIONER DEPARTMENT OF COMMERCIAL TAXES ERNAKULAM COCHIN-682 015.

2. THE COMMERCIAL TAX INSPECTOR COMMERCIAL TAX CHECK POST WALAYAR PALAKKAD-678 625 BY GOVERNMENT PLEADER SMT.SHOBHA ANNAMMA EAPEN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-01-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: jm WP(C).No. 981 of 2013 APPENDIX PETITIONER'S

EXHIBITS: EXHIBIT P1. TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE 1ST RESPONDENT UNDER KVAT ACT DATED 24 3/2012. EXHIBIT P2. TRUE COPY OF THE ANNEXURE TO CERTIFICATE OF REGISTRATION ISSUED BY THE 1ST RESPONDENT DATED 31 12/2012. EXHIBIT P3. TRUE COPY OF THE AGREEMENT OF LEASE ENTERED INTO BY THE PETITIONER WITH THE CONSIGNOR OF MACHINERIES DATED 18 12/2012. EXHIBIT P4. TRUE COPY OF THE COMMUNICATION SUBMITTED BY THE CONSIGNOR TO THEIR ASSESSING AUTHORITY ON SENDING THE GOOD UNDER TRANSPORT DATED 27 12/2012. EXHIBIT P5. TRUE COPY OF THE COMMUNICATION SUBMITTED BY THE CONSIGNOR TO THEIR ASSESSING AUTHORITY ON SENDING THE GOOD UNDER TRANSPORT DATED 27 12/2012. EXHIBIT P6.TRUE COPY OF THE DELIVERY NOTE IN FORM NO.15 NO.0406101 DATED 4 1/2012 (1ST LOAD). EXHIBIT P7.TRUE COPY OF THE DELIVERY NOTE IN FORM NO.15 NO.0406102 DATED 4 1/2012 (2ND LOAD). EXHIBIT P8.TRUE COPY OF THE DELIVERY NOTE IN FORM NO.15 NO.0406103 DATED 4 1/2012 (3RD LOAD). EXHIBIT P9.TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT UNDER SEC.47(2) DATED 4 1/2013. EXHIBIT P10.TRUE COPY OF THE CONTRACT BY THE CONSIGNOR WITH THE MANUFACTURER IN CHINA FOR SALE OF MACHINERY TO CONSIGNOR. EXHIBIT P11.TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER TO EXT.P9 NOTICE DATED 7 1/2013. EXHIBIT P12.TRUE COPY OF THE REVISED OWNERSHIP CERTIFICATE IN FORM NO.16 DATED 7 1/2012 (1ST LOAD). EXHIBIT P13.TRUE COPY OF THE REVISED OWNERSHIP CERTIFICATE IN FORM NO.16 DATED 7 1/2012 (2ND LOAD). EXHIBIT P14.TRUE COPY OF THE REVISED OWNERSHIP CERTIFICATE IN FORM NO.16 DATED 7 1/2012 (3RD LOAD). EXHIBIT P15.TRUE COPY OF THE OFFICIAL COMMUNICATION BY THE ASSESSING AUTHORITY OF THE CONSIGNOR TO THE CHECK POST AUTHORITY, WALAYAR DATED 6 1/2013.

RESPONDENTS' EXHIBITS : NIL \ TRUE COPY \ PA TO JUDGE jm ANTONY DOMINIC, J W.P.(C).981/2013

..... Dated this the 11th day of January, 2013

JUDGMENT Petitioner challenges Ext.P9, a notice detaining a consignment of machineries which were allegedly transported by the petitioner for their own use.

Irregularities which led to the detention mentioned in the notice are that the petitioner is not authorized to purchase the machineries in question, the signature in the lease agreement are not genuine, the purpose declared was doubtful and that the value shown is incorrect.

2. On service of notice, petitioner filed Ext.P11 objections explaining each of the allegations. However, adjudication is not completed and the machineries are also not released. It is in these circumstances, the writ petition is filed.

3. I heard the learned counsel for the petitioner and also the learned Government Pleader appearing for the respondents. W.P.(C).981/1

4. Although attempt has been made to explain all the irregularities in the notice, correctness of the allegations can be ascertained only by an enquiry to be conducted. In the nature of the allegations that are mentioned, I feel that the matter needs an early quietus. Therefore, I dispose of this writ petition directing that adjudication into the allegations in Ext.P9 shall be completed by the competent authority in the Department, as expeditiously as possible, at any rate, within ten days on the production of a copy of this judgment along with a copy of the writ petition. Sd/- ANTONY DOMINIC, JUDGE mrcs /true copy/ PA To Judge

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