

**idea Cellular Limited Vs. Intelligence Inspector**

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**Court :** Kerala

**Decided On :** Dec-20-2013

**Judge :** Honourable Mr.Justice P.R.Ramachandra Menon

**Appellant :** idea Cellular Limited

**Respondent :** intelligence Inspector

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON FRIDAY,THE20H DAY OF DECEMBER201329TH AGRAHAYANA, 1935 WP(C).No. 31239 of 2013 (D) ----- PETITIONER : ----- IDEA CELLULAR LIMITED, MERCY ESTATE, 2ND FLOOR, RAVIPURAM M.G.ROAD, COCHIN15REPRESENTED BY ITS AUTHORISED PERSON SRI.RAJ KUMAR P., (ASST. MANAGER (LEGAL)) BY ADVS.SRI.DEEPU THANKAN KUM.N.V.ANUPRIYA SMT.G.RENJITA RESPONDENT(S) : -----  
1. INTELLIGENCE INSPECTOR, DEPARTMENT OF TAXES INTELLIGENCE OFFICE SQUARD NO.II MATTANCHERY AT KARUKUTTY, CAMP AT WALAYAR.

2. ASST. COMMISSIONER OF COMMERCIAL TAXES (ASSNT), DEPT. OF COMMERCIAL TAXES SPECIAL CIRCLE III COMMERCIAL TAXES COMPLEX, THEVARA, ERNAKULAM PIN:

682. 015. R1 & R2 BY SR. GOVT. PLEADER SMT. SHOBA ANNAMMA EAPEN  
THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 2012-  
2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Mn  
...2/- WP(C).No. 31239 of 2013 (D) ----- APPENDIX  
PETITIONERS' EXHIBITS : ----- EXT.P1: TRUE COPY  
OF THE CERTIFICATE OF REGISTRATION DATED 209/2007 ISSUED BY  
THE 2D RESPONDENT. EXT.P2: TRUE COPY OF THE INVOICE OF AMARA  
RAJA DATED 2911/2013. EXT.P3: TRUE COPY OF THE NOTICE UNDER  
SECTION 47(2) OF THE KVAT ACT ISSUED BY THE 1ST RESPONDENT. EXT.P4:  
TRUE COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER TO  
THE 1ST RESPONDENT. RESPONDENT(S)' EXHIBITS : NIL  
----- //TRUE COPY// P.A. TO JUDGE Mn  
P.R.RAMACHANDRA MENON, J.

----- W.P.(c) No.31239 OF 2013-----  
----- Dated this the 20th day of December, 2013

## JUDGMENT

The goods transported by the petitioner on the strength of Ext.P2 invoice were intercepted at the check post issuing Ext.P3 notice under Section 47(2) of KVAT Act by the first respondent demanding security deposit to an extent of Rs. 639102/- suspecting tax evasion. Even though the petitioner submitted Ext.P4 explanation pointing out the facts and figures, the same was not palatable to the respondents and hence the challenge.

2. The insinuation made against the petitioner as given in Ext.P3 is in the following terms : " The goods with vehicle checked at CCP Walayar. As the goods are being imported into the State for a use other than for the sale or for the consumption in the manufacturing of taxable goods that to be sold in the State, that evident from the dealers previous return filed the concessional rate of purchase against "C" Form under Section 8(3) (b) of the CST Act 1956, cannot availed. Hence genuineness of the documents produced, bonafide of the transport and attempt to evade payment W.P.(C)No.31239/2013 2 of tax is suspected. The value of the goods is estimated @ Rs. 22,03,800/- including freight." 3. The learned counsel for

the petitioner submits that the reason noted by the concerned officer is not in conformity with the amended provision of law as on date and that the petitioner is entitled to have the goods transported on the basis of the relevant provisions of law.

4. After hearing both the sides and after taking note of the facts and circumstances as borne out by the materials on record and also the relevant provisions of law, this Court finds that the petitioner could be permitted to transport the goods on executing a 'Simple Bond' before the first respondent. It is ordered accordingly. It is made clear that the adjudication proceedings shall be finalised passing appropriate orders under Section 47(6) of the KVATA Act at the earliest, at any rate, within 'three months' from the date of receipt of a copy of this judgment. Writ petition is disposed of. Petitioner shall produce a copy of this judgment along with a copy of the writ petition before the first respondent for further steps. P.R.RAMACHANDRA MENON JUDGE sv.

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