

Techno Engineering Industries Vs. Commercial Tax Inspector

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Court : Kerala

Decided On : Mar-31-2014

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

Appellant : Techno Engineering Industries

Respondent : Commercial Tax Inspector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON MONDAY,THE31T DAY OF MARCH201410TH CHAITHRA, 1936 WP(C).No. 9301 of 2014 (K)

----- PETITIONER(S)/PETITIONER:

----- TECHNO ENGINEERING COMPANY, 17/1461-A19 MANIYOT COMPLEX, CHINTHAVALAPPU PUTHIYARA, PUTHIYARA, KOZHIKODE-673 004, REP BY PROPRIOR, SRI PRAVEEN KUMAR M.K. BY ADVS.SRI.VIJAYAN. K.U. SRI.K.V.VIMAL

RESPONDENT(S)/RESPONDENTS: ----- 1. COMMERCIAL TAX INSPECTOR, CTCP, WALAYAR, PALAKKAD, PIN-678 624.

2. STATE OF KERALA, REP BY THE SECRETARY (TAXES), GOVT.SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001. BY GOVERNMENT PLEADER SMT.SHOBHA ANNAMMA EAPEN. (SR.) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON3103-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 9301 of

2014 (K) ----- APPENDIX PETITIONER(S)' EXHIBITS
----- P1:- TRUE COPY OF REGISTRATION
CERTIFICATE ISSUED BY THE REGISTERING AUTHORITY. P2:- TRUE COPY
OF THE PURCHASE BILL NO071DTD263-2014 FROM M/S.COIMBATORE
EQUIPMENT, COIMBATORE. P3:- TRUE COPY OF THE NOTICE OR
NO46308/13-14 DTD263/2014 ISSUED BY THE IST RESPONDENT. P4:- TRUE
COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER BEFORE
THE INTERCEPTING AUTHORITY. RESPONDENT(S)' EXHIBITS NIL
----- /TRUE COPY/ P.A. TO JUDGE VPV
P.R.RAMACHANDRA MENON, J.

==--==--==--==--==--==--== W.P.(C)No.9301 of 2014 ==--==--==--==--==--==--==
Dated this the 31st day of March, 2014

JUDGMENT

The petitioner is aggrieved of the detention of goods brought by the petitioner, which was detained by the first respondent/Commercial Tax Inspector issuing Ext.P3 notice under Section 47(2) of the KVAT Act doubting evasion of tax and demanding security deposit as specified therein.

2. The learned Government Pleader appearing for the respondents submits on instructions and with reference to the materials on record that, because of the defects noted as per Ext.P3, the goods had to be detained in tune with the relevant provisions of law, doubting evasion of tax, and demanding security deposit. The said reasons are as given below:- "On verification of documents accompanied for the transport the goods under transport is old and used diesel generator. But on physical verification it is seen that the consigned goods are not so old. As such the value of the goods shown in the invoice is too low when compared to the prevailing market value. It is suspected that by simply diminishing the value of the goods deliberately attempt to evade payment of tax. Moreover the purchase order of the consignments is not accompanied. Hence value W.P.(C)No.9301 of 2014 2 of goods declared is estimated and S/D demanded." 3. After hearing both the sides, this Court finds that, this is a matter which requires to be finalised by way of adjudication proceedings under Section 47(6) of the KVAT

Act. But, for that reason, the goods need not be detained and the same shall be released to the petitioner forthwith, on satisfying 25% of the security deposit demanded vide Ext.P3 and on executing a 'simple bond' without sureties for the balance amount. This however shall be without prejudice to the rights and liberties of the respondent/competent authority to proceed with the adjudication proceedings, which shall be finalised in accordance with law, as expeditiously as possible, at any rate, within 'three months' from the date of receipt of a copy of this judgment. The petitioner shall produce a copy of the judgment, along with a copy of the writ petition, before the first respondent for further steps. The writ petition is disposed of. Sd/- P.R.RAMACHANDRA MENON JUDGE vpv

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