(2010) 08 KL CK 0046

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24104 of 2010 (K)

Jose Abraham APPELLANT

Vs

Intelligence Officer and Commercial Tax Officer RESPONDENT

Date of Decision : 03-08-2010

Acts Referred:

Kerala Value Added Tax Act, 2003 — Section 47(2)

Citation : (2010) 08 KL CK 0046

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

Advocate : K. Shaj, for the Appellant; No Appearance, for the Respondent

Judgement

P.R. Ramachandra Menon, J.—The petitioner, who is stated as a registered dealer under the KVAT Act, was transporting certain ceramic tiles from Willington Island, after having imported the same from elsewhere, to the destination in Kottayam district, in the vehicle bearing No. KL43 B 2210, when the same was intercepted by the respondents on the way on 26.7.2010, issuing Ext. P1 notice u/s 47(2) of the KVAT Act, doubting evasion of tax and demanding security deposit, as specified therein, which is under challenge in this Writ Petition.

2. The learned Counsel for the petitioner submits that, the reasons shown in Ext. P1 are rather ''technical'' in nature; stating that, the vehicle in the course of transit had some mechanical problem and that there was no attempt to evade the tax under any circumstances. The learned Counsel further submits that, difference in address pointed out, is only due to the fact that, in one of the proceedings the ''home address'' is given; whereas the other document reveals the ''business address'', which plea however does not find a place anywhere else than in the Writ Petition, as the petitioner has not chosen to file any explanation in response to Ext. P1.

3. The learned Government Pleader appearing on behalf of the respondents submits that, the delivery notice (copy of which is not produced before this

Court) reveals the time of the transit as 10 A.M. on 23.7.2010 while the interception was at 1.40 A.M. on 26.7.2010. It is also stated that, the invoice (copy of which is also not produced before this Court) reveals a different address than the one shown in Ext. P2 advance tax receipt. This being the position there is every reason for the respondents to have doubted evasion of tax, demanding security deposit, which hence is not liable to be interfered.

4. Considering the facts and circumstances, this Court finds that, this is a matter which requires to be adjudicated by the the concerned authority in accordance with law. But, for that reason this Court does not find it necessary to detain the vehicle as well as the goods and that the same shall be released to the petitioner forthwith, on condition that, the petitioner satisfies 50% of the security deposit demanded in Ext.P1, either in the form of ''cash'' or ''bank guarantee'' and executes a ''simple bond'' for the balance amount. This will be without prejudice to the rights and interests of the respondents to pursue adjudication proceedings, if any and the same shall be finalized in accordance with law, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of the judgment.

The Writ Petition is disposed of.

