**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**WEDNESDAY, THE 29TH DAY OF JULY 2020 / 7TH SRAVANA, 1942**

**WP(C).No.15200 OF 2020**

**PETITIONER:**

**JEELANI**
**AGED 56 YEARS**
**S/O. MOHAMMED, RESIDING AT NAHARMATTAM HOUSE,**
**VELLAYAMKUDI P.O, KATTAPPANA PIN 685 515**

**BY ADVS.**
**SRI.C.K.PAVITHRAN**
**SRI.K.BAIJU**
**SMT.NEENU PAVITHRAN**

**RESPONDENTS:**

1 **THE ASSISTANT STATE TAX OFFICER**
**STATE GOODS AND SERVICE TAX DEPARTMENT, SQUAD NO. 1,**
**KATTAPPANA, IDUKKI DISTRICT.**

2 **THE DEPUTY COMMISSIONER (GST)**
**KATTAPPANA, IDUKKI DISTRICT.**

**BY GOVERNMENT PLEADER DR.THUSHARA JAMES**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.07.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

## JUDGMENT

The petitioner has approached this Court aggrieved by a detention of his vehicle, which was used for carrying 445 kilograms of cardamom from Kattappana to Kumali for entrusting the goods for auction pooling at Kumali. In the Writ Petition, it is the case of the petitioner that, while the goods were being transported in the Jeep in question, on the onward journey to Kumali, the vehicle was intercepted, and after verification of the documents it was permitted to transport the goods to the auction destination. The vehicle on its return journey, without the goods, was however intercepted, yet again, by the respondent and detained on the ground that the goods had not been auctioned on the same date on which it was proceeding to Kumali for entrustment of the goods for auction. It is the case of the petitioner that there was no justification for detention of the vehicle on its return journey, more so when, it is not in dispute that the goods although not auctioned on the same date as the onward transportation, were subsequently auctioned from the auction centre on 16.07.2020, and hence, there was no offence for which the vehicle could have been detained on its return journey. Ext.P5 detention notice is impugned on this ground.

2. When the matter came up for admission on 27.07.2020, this Court posted the matter to today for enabling the Government Pleader to ascertain whether the goods that were carried by the vehicle had in fact been auctioned on 16.07.2020. When the matter was taken up today, the learned Government Pleader would submit, on instructions, that the goods had in fact been auctioned on 16.07.2020 and the detention of the vehicle on its return journey was only on account of a misunderstanding that the petitioner had declared that the goods would be auctioned on the same day as the onward transportation but they were not so auctioned on the said date.

3. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondent.

4. On a consideration of the rival submission and finding that the detention was on account of a misunderstanding of the nature of the transaction and transportation of the goods, and finding that the onward transportation of the goods was covered by valid documents, and on the return journey, when the vehicle was intercepted, it was not carrying any goods that had contravened the provisions of the Act, I close the Writ Petition with a direction to the respondent to forthwith release the

vehicle that has been detained through Ext.P5 detention notice. The Government Pleader shall communicate the gist of this order to the respondent for enabling an immediate release of the vehicle to the petitioner.

The Writ Petition is disposed of as above.

Sd/-

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

mns/29.7.2020

**APPENDIX**

**PETITIONER'S/S EXHIBITS:**

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| **EXHIBIT P1** | **TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE REGISTERING AUTHORITY** |
| **EXHIBIT P2** | **TRUE COPY OF THE DRIVING LICENCE** |
| **EXHIBIT P3** | **TRUE COPY OF THE FORM SIGNED AND HANDED OVER TO THE 1ST RESPONDENT.** |
| **EXHIBIT P4** | **TRUE COPY OF THE CROP RECEIPT** |
| **EXHIBIT P5** | **TRUE COPY OF THE FORM NO. GST MOV-02** |

**RESPONDENTS EXHIBITS:NIL**

**//TRUE COPY//**

**P.A TO JUDGE**