

Kerala High Court

M/S.Attitude vs State Of Kerala on 30 October, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 30961 of 2009(M)

1. M/S.ATTITUDE,
... Petitioner

Vs

1. STATE OF KERALA,
... Respondent

2. THE INTELLIGENCE INSPECTOR,

3. THE COMMERCIAL TAX OFFICER,

For Petitioner :SRI.K.I.ABDUL RASHEED

For Respondent : No Appearance

The Hon'ble MR. Justice S.SIRI JAGAN

Dated :30/10/2009

O R D E R

S. SIRI JAGAN, J

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W.P(C) No. 30961 of 2009

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Dated this the 30th day of October, 2009

J U D G M E N T

The petitioner is a partnership firm engaged in the business of manufacture and erection of sign boards and display boards. For the purpose of their business, they imported some materials from Belgium. After clearing the goods from the customs at the Cochin port, the same was transported to the petitioner's office. Consignment was accompanied by necessary documents. But the same was detained by the respondents on allegation of attempt to evade tax and by Ext.P6, the petitioner was directed to furnish cash deposit to the tune of Rs.66,700/- for release of goods. The petitioner is

challenging the same. According to the petitioner, from the documents accompanying the goods, it is abundantly clear that there was no attempt to evade tax in the matter and therefore there was absolutely no reason for detaining the goods.

2. I have heard the learned Government Pleader also, who points out that the consignment should have been accompanied by the documents as per Section 46 (3)(a) of the Kerala Value Added Tax Act, 2003 and consignment was not declared as per Section 46(3) (e) before the Commercial Tax Officer. Therefore he supports Ext.P6 notice.

3. I have considered the rival contentions in detail.

4. From Ext.P6 itself, I am prima facie of the view that the allegation against the goods is only of a technical nature. That technicality cannot normally give rise to a suspicious of attempt to evade tax also. However, in so far as the matter is pending before appropriate authority, I am not pronouncing on the same finally. I stated this only for the purpose of passing orders regarding release of the goods pending adjudication of the matter by the competent authority. Accordingly, the writ petition is disposed of with a direction to the competent authority to adjudicate the matter pursuant to Ext.P6 and pass final orders, as expeditiously as possible. Pending further proceedings, the goods shall be released to the petitioner on the petitioner executing a simple bond without sureties, for the amount covered by Ext.P6. Goods shall be released immediately on furnishing the bond.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE rhs