



2025:KER:29818

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

MONDAY, THE 7<sup>TH</sup> DAY OF APRIL 2025 / 17TH CHAITHRA, 1947

WP(C) NO. 5158 OF 2025

**PETITIONER(S):**

- 1      SHAJI GEORGE, AGED 48 YEARS  
S/O. GEORGE, RESIDING AT THEKKANATH HOUSE,  
ELAMPUZHA KARALAM,  
MUKUNDAPURAM TALUK,  
THRISSUR DISTRICT, PIN - 680 711.
  
- 2      PETER SANTHOSH RODRIGUES  
AGED 43 YEARS  
S/O THOMAS RODRIGUES,  
RESIDING AT NO.3-283C,  
3RD BLOCK, KATIPALLA,  
MANGALURU,  
MANGALURU DAKSHINA KANNADA DISTRICT, PIN - 575 030.

BY ADVS.  
G.HARIHARAN  
PRAVEEN.H.  
K.S.SMITHA  
B.R.SINDU  
V.R.SANJEEV KUMAR  
AFNA V.P.  
REMYA MURALI

**RESPONDENT(S):**

- 1      STATE TAX OFFICER (ENFORCEMENT)  
ENFORCEMENT SQUAD, KOYILANDY,  
STATE GOODS & SERVICES TAX DEPARTMENT MINI CIVIL  
STATION, KOYILANDY,  
KOZHIKODE DISTRICT, PIN - 673 305.



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- 2      STATE TAX OFFICER (INTELLIGENCE)  
STATE TAX OFFICE, MINI CIVIL STATION,  
THALIPARAMBA, KANNUR DISTRICT, PIN - 670 141.
  
- 3      DEPUTY COMMISSIONER (INTELLIGENCE)  
GOODS AND SERVICES TAX DEPARTMENT,  
CIVIL STATION, KOZHIKODE, PIN - 673 020.

SR.GP DR.THUSHARA JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
07.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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**BECHU KURIAN THOMAS, J.****W.P.(C) No.5158 of 2025****Dated this the 7<sup>th</sup> day of April, 2025****JUDGMENT**

Petitioners seek provisional release of vehicles mentioned in Ext.P1 and Ext.P3.

2. First petitioner had transported certain goods in two tanker lorries belonging to the second respondent, with registration Nos.KA-41/B-6559 and KA-11/C-2468. The said vehicles were intercepted on 30.12.2024 and 31.12.2024 at Koyilandy and at Payyannur respectively. Since the vehicles were transporting goods without necessary documents, they were initially detained. Subsequently, confiscation proceedings were initiated, and Ext.P16 and Ext.P17 orders of confiscation were issued on 04.02.2025. According to the petitioners, the orders have been issued without considering the documents produced, and hence, they seek provisional release of the vehicles.
3. A counter affidavit has been filed pointing out that the goods in transit were 20,000 ltrs. of white Kerosene, which is taxable @18% and at the time of inception, the person in charge of the goods and conveyance failed to produce any documents in support of the goods under movement. Further, voluntary statements were recorded from the



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person, who admitted that the goods under transport were not accompanied by any documents as prescribed by the Statute. It is also stated that no e-way bills were generated for the movement of the goods and thus the goods under transport were not accompanied by any documents as required by law.

4. In the meantime, an affidavit has been filed by the Advocate who appeared before the proper officer on behalf of the petitioners, stating that documents were submitted during the hearing, including tax invoices issued by M/s.Hindustan Petroleum Corporation from Mangalore, which were produced as Ext.P5 and Ext.P7. Despite production of documents, no reference was made to those documents in the orders of confiscation.
5. I have heard the counsel for the petitioner and the learned Senior Government Pleader.
6. A dispute has arisen regarding whether the petitioners had produced documents before the proper officer at the time of hearing. Though I initially intended to consider the correctness of the order in the light of the affidavit filed by the learned counsel for the petitioners, it is noticed that, petitioners have not sought any relief to quash the orders of confiscation. In such circumstances, without any challenge against the orders of confiscation, the provisional release of the vehicle cannot be granted by this Court as Section 130(7) of the CGST Act itself provides that an order of release can be issued by the proper officer himself in accordance with law, provided the conditions therein are satisfied.



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7. Further, petitioners can avail the remedy of challenging the orders of confiscation before the appellate authority, in accordance with law. When such alternative remedies are available, remedy under Article 226 cannot be invoked, especially since there are disputed questions of facts.
8. In view of the disputed facts regarding production of documents, I refrain from directing any release and instead relegate the petitioners to pursue their statutory remedies either under Section 130(7) or under Section 107 of the CGST Act. The period spent by the petitioner in pursuing this writ petition from 06.02.2025 till date, shall stand excluded while calculating the period of limitation for preferring appeals, if any.

The writ petition is disposed of as above.

sd/-  
**BECHU KURIAN THOMAS**  
**JUDGE**

AMV/07/04/2025



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**APPENDIX OF WP(C) 5158/2025****PETITIONER EXHIBITS**

- EXHIBIT P1**                      **A TRUE COPY OF THE REGULAR HEAVY GOODS PERMIT DATED 13.03.2023 ISSUED TO VEHICLE BEARING REGISTRATION NO.KA-11C-2468**
- EXHIBIT P2**                      **A TRUE COPY OF THE LICENCE DATED 27.09.2023 ISSUED BY THE COMMERCE AND INDUSTRY, PETROLEUM AND EXPLOSIVE SAFETY ORGANIZATION (PESO) MANGALORE RELATING TO VEHICLE NO.KA-11C-2468**
- EXHIBIT P3**                      **A TRUE COPY OF THE REGULAR HEAVY GOODS PERMIT DATED 16.03.2024 ISSUED TO VEHICLE BEARING REGISTRATION NO.KA-41B-6559**
- EXHIBIT P4**                      **A TRUE COPY OF THE LICENCE DATED 07.08.2024 ISSUED BY THE COMMERCE AND INDUSTRY, PETROLEUM AND EXPLOSIVE SAFETY ORGANIZATION (PESO) MANGALORE RELATING TO VEHICLE NO.KA-41B-6559**
- EXHIBIT P5**                      **A COPY OF THE TAX INVOICE DATED 30.12.2024 ISSUED BY M/S. HINDUSTAN PETROLEUM CORPORATION, MANGALORE TERMINAL FOR TRANSPORTATION OF 20KL INDUSTRIAL KEROSENE IN VEHICLE NO.KA-11C-2468**
- EXHIBIT P6**                      **A TRUE PHOTOGRAPH OF THE VEHICLE MENTIONED IN EXHIBIT.P1 IN THE OFFICE OF THE 1ST RESPONDENT**
- EXHIBIT P7**                      **A TRUE COPY OF THE TAX INVOICE DATED 30.12.2024 ISSUED BY M/S. HINDUSTAN PETROLEUM CORPORATION, MANGALORE TERMINAL FOR TRANSPORTATION OF 20KL INDUSTRIAL KEROSENE IN VEHICLE NO.KA-41B-6559**
- EXHIBIT P8**                      **A TRUE PHOTOGRAPH OF THE VEHICLE MENTIONED IN EXHIBIT.P3 DETAINED ON THE ROAD SIDE BY THE 2ND RESPONDENT**
- EXHIBIT P9**                      **A TRUE COPY OF THE SHOW CAUSE NOTICE DATED 06.01.2025 SENT BY THE 1ST RESPONDENT ADDRESSED TO THE 2ND PETITIONER**



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- EXHIBIT P10** P9 A TRUE COPY OF THE POSTAL COVER EVIDENCING RECEIPT OF EXHIBIT P9 NOTICE BY THE 2ND PETITIONER ON 15.01.2025
- EXHIBIT P11** APPEARANCE BEFORE THE 1ST RESPONDENT WAS NOTED TO APPEAR ON 14.01.2025. A TRUE COPY OF THE SHOW CAUSE NOTICE DATED 07.01.2025 SENT BY THE 2ND RESPONDENT ADDRESSED TO THE 2ND
- EXHIBIT P12** A TRUE COPY OF THE POSTAL COVER EVIDENCING RECEIPT OF EXHIBIT P11 NOTICE BY THE 2ND PETITIONER ON 15.01.2025
- EXHIBIT P13** A TRUE COPY OF THE REPLY DATED 20.01.2025 SENT BY THE 2ND PETITIONER ADDRESSED TO THE 1ST RESPONDENT
- EXHIBIT P14** A TRUE COPY OF THE REPLY DATED 20.01.2025 SENT BY THE 2ND PETITIONER ADDRESSED TO THE 2ND RESPONDENT
- EXHIBIT P15** A TRUE COPY OF THE JUDGMENT PASSED BY THE HON'BLE HIGH COURT OF KERALA ON 24.01.2025 IN WRIT PETITION 40/2025
- EXHIBIT P16** A TRUE COPY OF THE SUMMARY OF THE ORDER DATED 04.02.2025 ISSUED BY THE 1ST RESPONDENT U/S 130 OF THE CGST ACT REQUIRING PAYMENT OF RS.21,76,000/- TO BE PAID BY THE PETITIONERS I
- EXHIBIT P17** A TRUE COPY OF THE SUMMARY OF THE ORDER DATED 04.02.2025 ISSUED BY THE 2ND RESPONDENT U/S 130 OF THE CGST ACT REQUIRING PAYMENT OF RS.21,76,000/- TO BE PAID BY THE PETITIONERS
- EXHIBIT P18** A TRUE COPY OF THE RECEIPT DATED 16.01.2025 ISSUED BY M/S SUNDARAM FINANCE, MANGALORE IN THE NAME OF THE 2ND PETITIONER IN CONNECTION WITH THE VEHICLE MENTIONED IN EXHIBIT.P1
- EXHIBIT P19** A TRUE COPY OF THE RECEIPT DATED 17.02.2025 ISSUED BY M/S SUNDARAM FINANCE, MANGALORE IN THE NAME OF THE 2ND PETITIONER IN CONNECTION WITH THE VEHICLE MENTIONED IN EXHIBIT.P3
- EXHIBIT P20** A TRUE COPY OF THE RECEIPT DATED 10.01.2025 ISSUED BY M/S SUNDARAM FINANCE, MANGALORE IN



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THE NAME OF THE 2ND PETITIONER IN CONNECTION  
WITH THE VEHICLE MENTIONED IN EXHIBIT.P1

EXHIBIT P21

A TRUE COPY OF THE RECEIPT DATED 10.02.2025  
ISSUED BY M/S SUNDARAM FINANCE, MANGALORE IN  
THE NAME OF THE 2ND PETITIONER IN CONNECTION  
WITH THE VEHICLE MENTIONED IN EXHIBIT.P1