

(1994) 04 KL CK 0015

High Court Of Kerala

Case No: O.P. No. 2351 of 1992-E

Cleetus Vincent

APPELLANT

Vs

Sales Tax Inspector, Sales Tax
Check Post and Others

RESPONDENT

Date of Decision: April 6, 1994

Acts Referred:

- Kerala General Sales Tax Act, 1963 - Section 29A

Citation: (1994) 95 STC 330

Hon'ble Judges: T.L. Viswanatha Iyer, J

Bench: Single Bench

Advocate: Arikkat Vijayan Menon, for the Appellant; S. Vijayan Nair, Senior Government Pleader, for the Respondent

Final Decision: Allowed

Judgement

T.L. Viswanatha Iyer, J.

Having regard to the documents produced before this Court, namely, exhibits P1 and P2. I think that the detention of the goods at the check-post cannot be sustained. It is true that the check-post officer, acting u/s 29A did the right thing in insisting on production of a declaration in form 27A but then it is pointed out as evident from exhibits P1 and P2 that the goods in question had been purchased from the Depot Range Officer at Vettoor and were being transported by the petitioner himself who had purchased them. The mere fact that the petitioner who is transporting the goods to Tamil Nadu was not a registered dealer is not relevant nor sufficient to infer an attempt at evasion of tax which is so essential to sustain a detention u/s 29A. Since that ingredient is absent and having regard to the documents produced in this case the notice, exhibit P4 and the detention have to be quashed. I do so. The amount of security, if any collected from the petitioner will be refunded to him with all expedition.

The original petition is disposed of as above.