IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

RP.No. 432 of 2015

AGAINST THE JUDGMENT IN W.P.(C).NO.14727 OF 2015, DATED 19-05-2015

PETITIONER(S) :

M/S.GRANITO BUILDWARES,
OPP. GUIDANCE PUBLIC SCHOOL, MUNDA P.O.,
MALAPPURAM, REPRESENTED BY ITS MANAGING PARTNER,
MARSUQ ABDUL SALAM.

BY ADV. SRI.P.N.DAMODARAN NAMBOODIRI

RESPONDENT(S) :
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1. THE INTELLIGENCE INSPECTOR, SQUAD NO.II,
DEPARTMENT OF COMMERCIAL TAXES, WAYANAD,
KALPETTA- 673 121.

2. THE INTELLIGENCE OFFICER, SQUAD NO.II,
DEPARTMENT OF COMMERCIAL TAXES,
WAYANAD, KALPETTA- 673 121.

3. THE COMMERCIAL TAX OFFICER,
DEPT. OF COMMERCIAL TAXES, NILAMBUR- 679 329.

BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 09-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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R.P. No. 432 of 2015

IN

W.P.(C). No. 14727 of 2015

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Dated this the 9th day of June, 2015

O R D E R

The review petition is filed seeking a review of the judgment dated 19.05.2015 whereby this Court had, while considering the writ petition challenging the detention of goods that had been transported at the instance of the petitioner, found as follows:

> "On a consideration of the submissions on either side, I find that inasmuch as the issue raised by the respondents is one with regard to the quantity of goods that has been transported, it would be necessary to cause a measurement of the detained consignment to be done by the first respondent in the presence of the petitioner. Accordingly, i direct the first respondent to cause a measurement of the consignment to be done in the presence of the petitioner. The measurement of the consignment shall be done in accordance with the guidelines prescribed in the circular No.18 of 2012 dated 2306.2012 issued by the Commissioner of Commercial Taxes. The first respondent shall then prepare a measurement sheet recording the measurement taken by him and, if it is found to be properly done, the measurement sheet shall be countersigned by the petitioner in whose presence the measurement has been directed to be done. A copy of the signed measurement sheet shall also be handed over to the petitioner. The first respondent shall thereafter release the goods and the vehicle to the petitioner on the petitioner paying an amount equal to 30% of the security deposit that is found to be payable, based on the revised measurement done by the

> first respondent as directed above, and furnishing a simple bond without surety for the balance amount demanded pursuant to the measurement directed above. The matter shall thereafter be forwarded for adjudication before the authority concerned. In the adjudication proceedings, the competent authority shall take note of the fact that the case of the petitioner, that the goods were actually moving directly from Muthanga check post to Mananthavadi, is one that was canvassed by the petitioner before this Court in the writ petition and not at any stage prior to that."

2. In the review petition, it is the case of the petitioner that the 1st respondent did not cause a measurement of the consignment to be done in the manner directed by this Court in the aforementioned judgment, and the revised security deposit found to be payable by the petitioner, based on the revised measurement, was not intimated to the petitioner. The prayer in the review petition is essentially for modifying the direction in the judgment so as to direct the 2nd respondent to collect only such security deposit, as is attributable to the differential quantity that was detected, pursuant to the measurement of the consignment.

3. On a consideration of the facts and circumstances of the case, I am not inclined to review the judgment in the manner

prayed for by the review petitioner. Accordingly, the review petition is dismissed.

I take note of the fact that, pursuant to the judgment under review, the respondents have remeasured the consignment of granite slabs and found that there was only 5484 Sq. Ft. of granite slabs, as against the declared quantity of 4100 Sq. Ft. that was declared by the petitioner. The security deposit amount demanded from the petitioner has accordingly been revised to a lesser amount of Rs.1,90,843/-. Under the circumstances, I make it clear that the direction in the judgment under review, which mandates that the petitioner should pay an amount equal to 30% of the security amount, that is found to be payable, shall now apply in respect of the amount of Rs.1,90,843/-, that is arrived at by the respondents and accordingly, the petitioner shall pay 30% of Rs.1,90,843/- as a condition for obtaining clearance of the goods. The rest of the conditions imposed in the judgment shall continue to hold good. Save for the aforesaid observations, the review petition is otherwise, dismissed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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