IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

RP.No. 917 of 2015 (N)

JUDGMENT DATED 12-10-2015 IN WP(C) 30934/2015
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REVIEW PETITIONER(S)/PETITIONER:

THANDU CONSTRUCTION COMPANY,
NO.28, DIDHARA HALLY, HOBLY,
VIRGONAGAR P.O., BANGALORE.

BY ADVS.SRI.R.KRISHNA RAJ
SRI.BIJITH S.KHAN
SMT.E.S.SONI

RESPONDENT(S)/RESPONDENT:

COMMERCIAL TAX INSPECTOR,
WALAYAR.

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
13-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

msv/

A.K.JAYASANKARAN NAMBIAR, J.

R.P.No.917 of 2015
in
W.P.(C). No.30934 of 2015

Dated this the 13th day of October, 2015

<u>O R D E R</u>

The review petition is filed for correcting certain mistakes that occurred in the judgment dated 12.10.2015, as also in the cause title of the writ petition. It is submitted that the petitioner is a registered dealer under the Karnataka Value Added Tax Act with his address in Bangalore (as against Mangalore mentioned in the cause title) and not a registered dealer in the State of Kerala. Accordingly, corrections are to be effected in the portions in the judgment where the petitioner is referred to as a registered dealer under the Kerala Value Added Tax Act.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. The registry shall carry out the correction in the cause title in the writ petition by substituting the word “Bangalore” in the place of “Mangalore” in the address of the petitioner in the cause title of the writ petition. Further, taking note of the typographical mistakes that occurred in the judgment, and finding that the directions in the judgment will not in any way be affected by the said corrections, I recall the judgment dated 12.10.2015 and

dispose the writ petition as follows:

> "The petitioner, is aggrieved by Ext.P6 notice issued to him detaining a consignment of Air Conditioners that was being transported at the instance of the petitioner. In the writ petition, the petitioner is aggrieved by the insistence of the respondent that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.
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> 2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondent.
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> 3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:
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> (i) On a perusal of Ext.P6 notice, it is seen that the objection of the respondent is essentially that the transportation of goods being in the course of interstate movement and the consignor, being an outside the State dealer, was required to get registration and pay tax due to the Government. Counsel for the petitioner would submit that the goods in question were meant for installation in

Amritha Institute of Medical Sciences and Research Centre, Kochi, and the said person had furnished a Form 16 declaration showing that the goods were required for his own use. It is also not in dispute that the transportation of goods was duly accompanied by relevant documents contemplated under the KVAT Act. Taking note of the said submission, I direct the respondent to release the goods and the vehicle covered by Ext.P6 detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the notice, before the respondent.

(ii) The respondent shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders, after hearing the petitioner, within two months from the date of receipt of a copy of this judgment.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondent."

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/13.10.15