IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 1588 of 2015 (W)

PETITIONER :

SOBHA DEVELOPERS LTD., T.C.4/380,
"SRENILAYAM", KIZHAKKUMKARA, KULATHUR.P.O.,
THIRUVANANTHAPURAM-695 581,
REPRESENTED BY ITS AUTHORISED SIGNATORY V.G.VENUGOPAL.

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR

RESPONDENT(S):

1. **COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAX CHECK-POST, AMARAVILA,
   THIRUVANANTHAPURAM DISTRICT-695 122.

2. **COMMERCIAL TAX OFFICER (WORKS CONTRACT),**
   TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM-695 002.

R1 & R2 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.1588/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 **COPY OF THE CERTIFICATE OF REGISTRATION**

P2 **COPY OF THE WORK ORDER DATED 24/09/2013**

P3 **COPY OF THE E-SUGAM DECLARATION DATED 30/10/2013**

P3(A) **COPY OF THE DECLARATION IN FORM 8F DATED 3/11/2013.**

P4 **COPY OF THE RUNNING BILLS RAISED BY M/S. SAI INFRA EQUIPMENT PVT.LTD., BANGALORE.**

P4(A) **COPY OF THE LEDGER OF THE PETITIONER.**

P5 **COPY OF THE NOTICE DATED 8/01/2015 ISSUED BY THE 1ST RESPONDENT.**

P6 **COPY OF THE REPLY DATED 8/01/2015 FILED BY THE PETITIONER.**

P7 **COPY OF THE LETTER NO.C2-28512/12/CT DATED 24/09/2012 OF THE COMMISSIONER OF COMMERCIAL TAXES, THIRUVANANTHAPURAM.**

RESPONDENT'S EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.1588 of 2015 (W)

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Dated this the 15th day of January, 2015

JUDGMENT

The petitioner, who is a Works Contractor, is a registered dealer under the provisions of the Kerala Value Added Tax Act, 2003 and the Central Sales Tax Act, 1956. A consignment of goods, that was being transported from Thiruvananthapuram to Bangalore at the instance of the petitioner, was detained by the respondents. In the writ petition, the petitioner is aggrieved by the insistence of the respondents that the petitioner must pay the security deposit demanded in Ext.P5 detention notice as a condition for release of goods and vehicle.

2. Heard Sri.S.Anil Kumar, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

2. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with the following directions:

> (i) On a perusal of Ext.P5 notice, it is seen that the reason for detention was the observation by the respondents that, while the goods under transport were covered by a declaration, which stated that the goods were being returned to the original consignor after job work in Kerala, there

was no documentary evidence to show that, it was the very same goods that he brought into the State that was now being transported out of the State. In view of the fact that, the documents to suggest the identity of the goods as the very same goods that were earlier brought into the State were not available, the detention by the respondents cannot be said to be unjustified. I take note, however, of the fact that the petitioner is a registered dealer within the State and direct the first respondent to release the consignment and the vehicle subject to the petitioner paying 25% of the amount demanded as security deposit in Ext.P5 notice and executing a simple bond without sureties for the balance amount therein before the first respondent.

(ii) The respondents 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 respondents.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/15/01/

/TRUE COPY/

P.A.TO JUDGE