

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C) .No. 2262 of 2015 (G)

PETITIONER(S) :

M/S. VOLTAS LIMITED
39/368, SHEMA BUILDING, M.G.ROAD
ERNAKULAM, REPRESENTED BY ITS HEAD - SHARED
SERVICE CENTRE TREESA BETTY FIGARUS

BY ADV. SMT.S.K.DEVI

RESPONDENT(S) :

1. THE COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHECK POST, WALAYAR - 678 625.

2. THE COMMERCIAL TAX OFFICER (ENQUIRY)
O/O.THE DEPUTY COMMISSIONER DEPT. OF COMMERCIALTAXES
MATTANCHERRY - 682 002.

3. THE MANAGER
BANK OF INDIA, SHANMUGHAM ROAD, ERNAKULAM -682 031.

4. THE ASST.COMMISSIONER (ASSMT)
DEPT OF COMMERCIAL TAXES, SPL.CIRCLE I
ERNAKULAM 682 015.

BY SRI.DEVAN RAMACHANDRAN
BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .No. 2262 of 2015 (G)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P-1: TRUE COPY OF THE CERTIFICATE NO.TIN 32070266965 C ISSUED
UNDER THE ACT.

EXT.P-2: TRUE COPY OF THE ORDER NO.OR. 1811/01/09 - 10 DATED
21.8.2014

EXT.P-3: TRUE COPY OF THE EXTENDED BANK GUARANTEE FOR AN AMOUNT OF
RS.305590/- DATED 25.4.2014

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY

P.A TOP JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.2262 of 2015

.....
Dated this the 22nd day of January, 2015

J U D G M E N T

The petitioner who has been served with Ext.P2 order is aggrieved by the steps taken by the respondents to encash a bank guarantee, that was furnished by the petitioner as security deposit pursuant to detention of goods, and which deposit was ordered to be converted into penalty in Ext.P2 order. It is the case of the petitioner that, against Ext.P2 order that was received by the petitioner on 20.01.2015, the petitioner has a remedy by way of appeal which can be availed within a statutory period of 30 days from the date of receipt of Ext.P2 order. The petitioner contends that the steps, if any, taken by the respondents to encash the bank guarantee, even before the expiry of the period granted under the statute to prefer the appeal, would be illegal, and hence, this writ petition to restrain the respondents from encashing the bank guarantee.

2. I have heard Smt.S.K.Devi, the learned senior counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for respondents.

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 granting the petitioner one months time to file the appeal, together with the stay petition, before the appellate authority under the Kerala Value Added Tax Act. It is made clear that the respondents shall not encash the bank guarantee, furnished to them by the petitioner, till then. The petitioner is also directed to keep the bank guarantee alive during the pendency of the proceedings before the appellate authority.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

