IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C).No. 2520 of 2015 (L)

PETITIONER:

ENGINEERING COMBINES,
CC88, 3RD FLOOR, DD BAZAR,
GOPALAPRABHU ROAD, ERNAKULAM,
COCHIN - 35, REPRESENTED BY ITS PARTNER,
E.MATHEW JOHN.

BY ADV. SRI.R.MURALIDHARAN (AROOR)

RESPONDENT(S):
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1. THE COMMERCIAL TAX OFFICER,
   KVAT CIRCLE -II, MINI CIVIL STATION,
   THRIPUNITHURA, KOCHI, PIN - 682 301.

2. THE INTELLIGENCE INSPECTOR,
   INTELLIGENCE SQUAD MATTANCHERRY-II
   AT KARUKUTTY,
   DEPARTMENT OF COMMERCIAL TAXES,
   KOCHI - 683 576,
   CAMP AT COMMERCIAL TAX CHECK POST, WALAYAR.

BY GOVERNMENT PLEADER SMT.LILLY.K.T

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 2520 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : **TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED UNDER KVAT ACT, DATED 30.6.2007.**

EXHIBIT P2 : **TRUE COPY OF THE TAX INVOICE ATTACHED WITH THE CONSIGNMENT DATED 3.1.2015.**

EXHIBIT P3 : **TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT UNDER SECTION 47(2) DATED 12.1.2015.**

EXHIBIT P4 : **TRUE COPY OF THE REQUEST MADE BY THE PETITIONER ALONG WITH THE CERTIFICATE ISSUED BY THE 1ST RESPONDENT, DATED 21.1.2015.**

EXHIBIT P5 : **TRUE COPY OF THE ACKNOWLEDGEMENT RECEIVED FOR SUBMISSION OF EXT. P4 DATED 21.1.2015.**

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 2520 of 2015 (L)

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Dated this the 23rd day of January, 2015

JUDGMENT

The petitioner is a registered dealer under the provisions of the Kerala Value Added Tax Act & Central Sales Tax Act, and is aggrieved by Ext.P3 notice, whereby a consignment of Portable Teaching System (electronic goods), was detained at the CTCP, Walayar in the course of transportation from Hyderabad to Thiruvananthapuram. In the writ petition the petitioner is aggrieved by the insistence of the respondents that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. Heard Sri.R.Muraleedharan, the learned counsel for the petitioner and Smt.Lilly K.T., the learned Government Pleader for the respondents.

3. 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.P3, it is seen that the objection of the respondents is that, the dealer is not authorised to effect any interstate purchase of teaching systems by availing concessional rate of CST @ 2%. The petitioner, however, relies on Ext.P1 registration certificate issued under the

CST Act as also Ext.P4 certificate of the Commercial Tax officer, KVAT Circle II, Tripunithura, to show that, he did have the authorisation to purchase the equipment in question. In that view of the matter and also the fact that the petitioner is a registered dealer, I direct the 2nd respondent to release the goods and vehicle to the petitioner, on the petitioner executing a simple bond without sureties before the 2nd respondent, for the security deposit amounts demanded in Ext.P3 notice.

(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/23/01/

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