

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. 2525 of 2015 (M)

PETITIONER :

**PHILIPS INDIA LIMITED, XL/215A,
"KRISHNA KRIPA", LAYAM ROAD, ERNAKULAM,
KOCHI-682 011,
REPRESENTED BY MR. KUMAR VENKITACHALAM-MANAGER
FISCAL & AUTHORISED SIGNATORY.**

**BY ADVS.SRI.JOSEPH JERARD SAMSON RODRIGUES
SRI.ROVIN RODRIGUES**

RESPONDENT :

**THE INTELLIGENCE INSPECTOR,
SQUAD NO.1, COMMERCIAL TAXES,
ALAPPUZHA-688 001**

BY GOVERNMENT PLEADER SMT. LILLY.KT.

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

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE CERTIFICATE OF REGISTRATION IN FORM NO.4, ISSUED BY THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE, COMMERCIAL TAXES, MATTANCHERRY AT ALUVA.**
- P2 COPY OF THE STOCK TRANSFER NOTE NO.006/2015 DATED 15/01/2015 FOR RS.10,00,000/-**
- P3 COPY OF THE E-SUGAM FORM NO.14723546992 DATED 15/01/2015.**
- P4 COPY OF THE E-CONSIGNMENT DECLARATION IN FORM NO.8F BEARING TOKEN NO.32150216575/2014-15/548 DATED 16/01/2015**
- P5 COPY OF THE DEMO REQUEST LETTER DATED 01/01/2015 ISSUED BY M/S. DESINGANAD CT SCAN CENTRE, KAYAMKULAM.**
- P6 COPY OF THE NOTICE NO.OR 643/14-15 DATED 20/01/2015 AT 09.15 HOURS, ISSUED BY THE RESPONDENT**
- P7 COPY OF THE REPLY LETTER DATED 20/01/2015 SUBMITTED AT 16.45 HOURS TO THE RESPONDENT**
- P8 COPY OF THE DELIVERY NOTE DEMONSTRATION AND RETURN NO.112/2014 DATED 20/01/2015 OF THE PETITIONER.**
- P9 COPY OF THE DELIVERY NOTE NO.321502/DN/47945/2014 DATED 20/01/2015 PREPARED IN FORM NO.15**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 2525 of 2015 (M)

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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, 2003. Petitioner is aggrieved by Ext.P6 notice whereby a consignment of Medical equipments, that was being transported from Ernakulam to Kayamkulam at the instance of the petitioner, was detained at Cherthala. 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.Joseph Jerard Samson Rodrigues, the learned counsel for the petitioner and Smt.Lilly K.T., the learned Government Pleader for the respondent.

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.P6 detention notice, it is seen that the objection of the respondent is with regard to the fact that the transportation of the goods was not accompanied by a delivery note that was prescribed under the KVAT Act and Rules. It is the specific case of the petitioner that,

immediately on the said defect being pointed out, and within the 24 hours permitted to him, he had produced the original of the delivery note along with Ext.P7 reply, which is seen acknowledged by the Intelligence Inspector, Squad No.I., Commercial Taxes, Alleppey. In that view of the matter and considering the fact that the petitioner is a registered dealer, I direct the respondent to release the goods and vehicle, on the petitioner executing a simple bond without sureties for the security deposit demanded in Ext.P6 notice.

(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 respondents.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/23/01/

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