

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

WP(C).No. 3056 of 2015 (F)

PETITIONER(S):

**M/S. DEEKEY COMMUNICATIONS,
AIRPORT ROAD, RAMANATTUKARA,
CALICUT- 673 633, REP. BY THE MANAGING PARTNER,
SUJITH.**

BY ADV. SRI.DEEPU THANKAN

RESPONDENT(S) :

**THE INTELLIGENCE OFFICER,
SQUAD NO.II, COMMERCIAL TAXES,
KASARAGOD- 671 121.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE FRANCHISEE AGREEMENT DATED 09.12.2014
EXECUTED BY THE IDEA CELLULAR LTD.**
- EXHIBIT P2: TRUE COPY OF THE STORE LAYOUT OF 160 SQ.FT SHOW ROOM OF
THE PETITIONER.**
- EXHIBIT P3: TRUE COPY OF THE PURCHASE ORDER SUBMITTED BY
THE PETITIONER DATED 03.12.2014.**
- EXHIBIT P4: TRUE COPY OF THE SALE INVOICES-CUM-DELIVERY CHELLAN
DATED 13.01.2015.**
- EXHIBIT P5: TRUE COPY OF THE E-CONSIGNMENT DECLARATION IN FORM NO.8F
DATED 14.01.2015.**
- EXHIBIT P6: TRUE COPY OF THE CERTIFICATE OF OWNERSHIP IN FORM NO.16
DATED 03.12.2014.**
- EXHIBIT P7: TRUE COPY OF THE NOTICE UNDER SECTION 47(2) OF THE KERALA
VALUE ADDED TAX ACT, 2003 ISSUED BY THE RESPONDENT
DATED 21.01.2015.**
- EXHIBIT P8: TRUE COPY OF THE EXPLANATION LETTER OFFERED BY
THE PETITIONER TO THE RESPONDENT DATED 23.01.2015.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.3056 of 2015 (F)

.....
Dated this the 30th day of January, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P7 detention notice whereby a consignment of furniture, that was being transported from Gurgaon to Ramanattukara at the instance of the petitioner, was detained by the check post authorities at Manjeswarom. 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.Deepu Thankan, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, 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.P7 detention notice, it is seen that the objection of the respondent is that the transportation of the goods was not accompanied by any of the documents that was prescribed under the KVAT Act and CST Act. It is the case of the petitioner that, the goods were being transported for his own use, and that the necessary Form-8F declaration as well as Form-16

certificate of ownership had been entrusted to the driver of the vehicle for production before the authority. The petitioner disputes the stand of the respondent that the goods were not accompanied by the documents prescribed under the Act. Inasmuch as, in Ext.P7 notice, it is stated that there were no documents that accompanied the goods, the suspicion on the part of the respondent cannot be said to be unjustified. I take note, however, of the fact that the petitioner has now produced the copy of the Form-8F declaration and Form-16 certificate of ownership to establish that the goods were being transported for his own use and direct the respondent to release the consignment and vehicle, on condition that the petitioner pays 25% of the amount demanded as security deposit in Ext.P7 notice and executes a simple bond without sureties for the balance amount demanded therein.

(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