

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 3217 of 2015 (B)

PETITIONER :

**LIPI DATA SYSTEMS LTD.,
40/6185, 3RD FLOOR, SWAPNIL ENCLAVE
MARINE DRIVE, ERNAKULAM
COCHIN 682 031
REPRESENTED BY K. PREM KUMAR, MANAGER
LIPI DATA SYSTEMS LTD**

**BY ADVS.SRI.K.M.CHERIAN
SRI.P.M.GIRIJAVALLABHAN
SRI.V.P.SABU
SRI.R.RAMAKRISHNAN POTTY**

RESPONDENT(S) :

**1. THE ASST. COMMISSIONER
COMMERCIAL TAX DEPARTMENT, SPECIAL CIRCLE III
ERNAKULAM, KOCHI 682 015**

**2. THE INTELLIGENCE INSPECTOR
SQUAD NO. VI
C/O. INSPECTING ASST.COMMISSIONER (INT)
COMMERCIAL TAXES, KOZHIKODE 673 006,
CAMP AT WALAYAR**

**3. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY
DEPARTMENT OF COMMERCIAL TAXES, SECRETARIAT
THIRUVANANTHAPURAM - 695 001**

R1 TO R3 BY SR. GOVT. PLEADER SMT. SHOBA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 3217 of 2015 (B)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 PHOTOCOPY OF THE KVAT/CST REGISTRATION CERTIFICATE ISSUED
BY THE FIRST RESPONDENT.**
- EXT. P2 PHOTOCOPY OF THE STF NO. 185540 DATED 20-01-2015 ISSUED BY
THE SELLER.**
- EXT. P3 PHOTOCOPY OF THE FORM N. 8F NO. 32070453704/2014-15/144.**
- EXT. P4 PHOTOCOPY OF THE NOTICE NO VE/VI/845/14-15 DATED 25/01/2015
ISSUED BY THE SECOND RESPONDENT.**
- EXT. P5 PHOTOCOPY OF THE REPLY SUBMITTED BY THE PETITIONER TO THE
SECOND RESPONDENT DATED 28-01-2015**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.3217 of 2015

.....
Dated this the 2nd day of February, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Ext.P4 notice issued to him detaining a consignment of computer systems and peripherals that was being transported from Himachal Pradesh to Ernakulam at his instance. 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.K.M.Churian, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, 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.P4 notice, it is seen that, the objection

of the respondents with regard to the documents that accompanied the transportation of the goods. It is found that while there was an 8F declaration to support the transportation, the delivery note in the prescribed form as mentioned in the Kerala Value Added Tax Act did not accompany the goods, which were said to be transported pursuant to a stock transfer. It is noticed, however, that there was an STF cum delivery chalan, which is a prescribed document in the consignors State, and to that extent there was a document that indicated that the the consignment was being transported as a stock transfer.

(ii) Considering the fact that the petitioner is a registered dealer in the State, I direct the 2nd respondent to release the goods and the vehicle on the petitioner furnishing a simple bond without sureties for the security deposit amount demanded in Ext.P4, before the 2nd respondent.

(iii) The 2nd 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.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

