

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).NO. 3893 OF 2015 (J)

PETITIONER(S):

**M/S.WIPRO GE HEALTHCARE (P) LTD.,
5TH FLOOR, ARYA BHANGI PINNACLE,
ELAMKULAM, S.A. ROAD, KOCHI-682 020.**

**BY ADVS.SRI.A.KUMAR,
SRI.P.J.ANILKUMAR,
SMTG.MINI,
SRI.P.S.SREE PRASAD.**

RESPONDENT(S):

- 1. INTELLIGENCE INSPECTOR, SQUAD NO.II,
DEPARTMENT OF COMMERCIAL TAXES,
THODUPUZHA, IDUKKI, KERALA-685 584.**
- 2. ARCHANA HOSPITAL, THODUPUZHA,
IDUKKI-685 584, REPRESENTED BY
CHIEF MEDICAL OFFICER.**

R1 BY GOVT. PLEADER SMT.SHOBA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).NO. 3893 OF 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1: TRUE COPY OF THE PURCHASE ORDER ISSUED BY ARCHANA HOSPITAL DATED NIL.

EXHIBIT P2: TRUE COPY OF THE MONEY RECEIPT DATED 23.12.2014.

EXHIBIT P3: TRUE COPY OF THE INVOICE NO.1410650312 DATED 25.12.2014.

EXHIBIT P4: COPY OF PACKING LIST-CUM-DELIVERY-CHALLAN NO.ZCAT NO.S00002AA DATED NIL.

EXHIBIT P5: COPY OF WAY BILL NO.4641650 DATED 25.12.2014.

EXHIBIT P5(A): TRUE COPY OF THE RETURN FOR THE MONTH OF DECEMBER 2014 DATED 14.01.2015.

EXHIBIT P6: TRUE COPY OF THE NOTICE DATED 31.12.2014.

EXHIBIT P7: TRUE COPY OF REPLY DATED 07.01.2015.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.3893 of 2015

.....
Dated this the 11th day of February, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Ext.P6 detention notice issued to him, detaining a consignment of Medical Diagnostic Imaging Equipment, at Thodupuzha-Muvattupuzha road while it was being transported at the instance of the petitioner. 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.A.Kumar, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned counsel 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.P6 detention notice, it is seen that the

objection of the respondents is with regard to the fact that the invoice and accompanying documents showed the goods as being consigned to Archana Hospital, Thodupuzha whereas the vehicle was found to be carrying the goods and proceeding in another direction, towards Muvattupuzha. It would appear that the goods had actually been consigned to Archana Hospital, Thodupuzha and when the goods reached there, owing to a dispute between the parties as regards the payments due, the petitioner refused to deliver the goods and accordingly, chose to take the goods back to its premises. It is during the return leg of the journey that the vehicle was detained. It is pointed out by counsel for the petitioner that they have since included the transaction, as a taxable sale transaction in their returns and paid tax in respect of the said transaction along with their return. The learned Government Pleader would, no doubt, point out that the detention of the goods was on 31.12.2014 and the returns were submitted only thereafter, and hence, but for the detention, there was a likelihood that the petitioner would not have included the said transaction in the return for the month. Be that as it may, I take note of the fact that the petitioner is a registered dealer in the State and he has offered a valid explanation for the lapses noticed by the respondents.

(ii) Taking note of the fact that the petitioner has since paid

tax in respect of the transaction, I direct the 1st respondent to release the goods and the vehicle on the petitioner furnishing a simple bond without surety for the security deposit demanded in Ext.P6 notice.

(iii) The 1st 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/

