

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No.5650 of 2015 (E)

PETITIONER:

**M/S.GODREJ & BOYCE MFG CO.LTD,
SECOND FLOOR,ANGELS ARCADE,
COCHIN UNIVERSITY P.O,SOUTH KALAMASSERY,
KOCHI-682 022,ERNAKULAM DISTRICT,
REPRESENTED BY ITS KOCHI SENIOR MANAGER FINANCE,
SRI.RAMESH PAI V.P.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENTS:

- 1. INTELLIGENCE INSPECTOR,COMMERCIAL TAXES,
SQUAD NO.1,MINI CIVIL STATION ANNEX,
ALAPPUZHA - 688 013.**
- 2. ASSISTANT COMMISSIONER (ASSMNT).
COMMERCIAL TAXES,SPECIAL CIRCLE-I,
SALES TAX COMPLEX,COCHIN - 682 015.**

BY GOVT. PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF INVOICE NO.KEI 1709651 DATED 16-02-2015 FOR RS.1,01,520.69 RAISED BY THE PETITIONER, ON M/S.GOOD MORNING ENTERPRISES, ALAPPUZHA (TIN 32040685315) FOR THE SALE OF FURNITURE.

EXT.P1(a):TRUE COPY OF INVOICE NO.KEI 1709652 DATED 16-02-2015 FOR RS.1,01,520.69 RAISED BY THE PETITIONER, ON M/S.GOOD MORNING ENTERPRISES, ALAPPUZHA (TIN 32040685315) FOR THE SALE OF FURNITURE.

EXT.P1(b):TRUE COPY OF INVOICE NO. KEI 2445378 DATED 16-02-2015 FOR RS.68,827.10 RAISED BY THE PETITIONER, ON M/S.GOOD MORNING ENTERPRISES, ALAPPUZHA (TIN 32040685315) FOR THE SALE OF FURNITURE.

EXT.P2:TRUE COPY OF LORRY RECEIPT NO.96212577 DATED 16-02-2015 ISSUED BY KERALA ROADWAYS PVT. LTD. FOR EFFECTING DOOR DELIVERY OF EXT.P1 TO P1(B) GOODS AT THE BUSINESS PLACE OF ALAPPUZHA DEALER.

EXT.P3:TRUE COPY OF NOTICE OR NO.679/14-15 DATED 17-02-2015 ISSUED BY 1ST RESPONDENT DEMANDING SECURITY DEPOSIT OF RS.78,850/- U/S.47(2) TO THE KVAT ACT FOR THE REASON OF NOT CARRYING TRANSPORT COPY OF INVOICE.

EXT.P4:TRUE COPY OF REPLY DATED 18-02-2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT, AGAINST EXT.P3 NOTICE.

EXT.P4(a):TRUE COPY OF LETTER DATED 18-02-2015 ISSUED BY KERALA ROADWAYS STATING THE RECEIPT HANDING OVER OF TRANSPORT COPIES OF THE INVOICES AT THE TIME OF BOOKING THE DETAINED GOODS, WITH A CHANCE OF MISSING THE SAME FROM THE DRIVER OF THE TRANSPORT VEHICLE IN THE ENROOT.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.5650 of 2015 (E)

.....
Dated this the 23rd day of February, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P3 detention notice whereby a consignment of furniture, that was being transported 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.Tomson T. Emmanuel, the learned counsel for the petitioner and Sri.Sudheesh Kumar, 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 notice, it is seen that the objection of the respondents is with regard to the fact that, the transportation was covered by copies of the invoice, other than the duplicate copy, which was to accompany the transportation of the goods as per the KVAT Rules. The learned counsel for the petitioner would submit that the duplicate copy for transporter,

although handed over to the driver of the vehicle, was misplaced by the driver. At any rate, he undertakes to either produce the duplicate copy of the invoice, if found, or file an affidavit stating that the duplicate copy has been lost and that the other copies of the invoice in question will not be used for transportation of any other goods. I also take note of the fact that the petitioner is a registered dealer in the State and direct the 1st respondent to release the goods and vehicle on condition that the petitioner furnishes a simple bond without sureties for the security deposit amount demanded in Ext.P3 detention notice before the 1st respondent.

(ii) The 1st respondent shall ensure that, either the duplicate copy of the invoice or the affidavit undertaken to be filed above, shall be obtained from the petitioner.

(iii) 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.

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE