

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 6189 of 2015 (W)

PETITIONER :

**M/S. AMARA RAJA BATTERIES LIMITED,
DOOR NO. 24/188A, PATHDIPPALAM, CHANGAMPUZHA NAGER
SOUTH KALAMASSERY - 682033, ERNAKULAM DISTRICT
REPRESENTED BY MR. UMESH T. BRANCH
ACCOUNTANT & AUTHORISED SIGNATORY**

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

RESPONDENT :

**THE INTELLIGENCE INSPECTOR, SQUAD NO. VIII,
DEPT. OF COMMERCIAL TAXES, PALAKKAD - 678001
PALAKKAD DISTRICT CAMP AT COMMERCIAL TAX
CHECK POST, WALAYAR.**

BY GOVERNMENT PLEADER SRI. SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE REGISTRATION CERTIFICATE IN FORM NO. 4, ISSUED BY THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE - I, DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM.**
- P2: COPY OF THE DELIVERY CHALLAN NO.10341502DC000001 DT 23/2/2015 FOR RS 19,099.99.**
- P3: COPY OF THE DELIVERY CHALLAN NO. 10341502D000002 DT 23/2/2015 FOR 4,00,898.23.**
- P4: COPY OF THE DELIVERY CHALLAN NO. 10341502DF000003 DT 23/02/2015 FOR RS 3,98,580.83.**
- P5: COPY OF THE DELIVERY NOTE IN FORM NO. 15 BEARING SL.NO. 320702/DN/195579/2014 DT 23/2/2015.**
- P6: COPY OF THE E-CONSIGNMENT DECLARATION IN FORM NO. 8F BEARING TOKEN NO. 32071542682/2014-15/359 DT 23/2/2015.**
- P7: COPY OF THE NOTICE NOVC/VIII/489/14-15 DT 24/2/2015 ISSUED BY THE RESPONDENT INTELLIGENCE INSPECTOR.**
- P8: COPY OF THE FIELD SCRAP JOB WORK AGREEMENT DT 1/7/2014 SIGNED BETWEEN THE PETITIONER AND NILE LIMITED.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6189 OF 2015

Dated this the 26th 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.P7 notice issued to him detaining a consignment of scrap battery that was being transported at his instance from Cochin to Andhra Pradesh. 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 appearing for the petitioner and Sri.Sudheeesh Kumar, the learned Government Pleader appearing 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 essentially that the goods that were being consigned for the purposes of job work were not accompanied by a copy of the agreement for job work said to have been entered into between the

Head Office of the petitioner in Andhra Pradesh and M/s. Nile Ltd. Thirupathi. I take note of the fact that the consignment was accompanied by a delivery note, and Form 8F declaration as prescribed under the KVAT Act, which indicated that it was for the purposes of job work.

(ii) I also take note of the fact, that the petitioner is a registered dealer in the State of Kerala and therefore direct the respondent to release the goods on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P7 before the respondent.

(iii) 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.

(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

