

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 6426 of 2015 (C)

PETITIONER :

**M/S.BAJAJ ELECTRICAL LTD.,
CRL HOUSE, 42/1107, TATA OIL MILLS ROAD,
COCHIN-682 018, REPRESENTED BY ITS MANAGER MR. PRAKASH.**

BY ADV. SMT.KLATHA

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
SECRETARIATE, THIRUVANANTHAPURAM-695 001**
- 2. ASSISTANT COMMISSIONER, SPECIAL CIRCLE-1,
COMMERCIAL TAXES, ERNAKULAM-682 019**
- 3. THE INTELLIGENCE INSPECTOR, SQUAD NO.1,
DEPARTMENT OF COMMERCIAL TAXES, EDAPPALLY,
ERNAKULAM-682 024, CAMP AT WALAYAR-678 105**

R1 TO R3 BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.6426/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE PURCHASE ORDER DATED 4TH DECEMBER 2014 ISSUED BY KNR CONSTRUCTION LTD TO THE PETITIONER.
- P2 COPY OF THE COMMERCIAL INVOICE 65 DATED 23/02/2015 ISSUED BY E S ELECTRONICS INDIA P LTD., BANGALORE TO THE PETITIONER COMPANY
- P3 COPY OF THE DETENTION NOTICE NO.OR 1/721/2014-15 DATED 25/02/2015 ISSUED BY THE THIRD RESPONDENT U/S. 47(2) OF THE KVAT ACT TO THE PETITIONER.
- P4 COPY OF THE FORM 8F DATED 24/2/15 ISSUED BY THE PETITIONER.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.6426 of 2015 (C)

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Dated this the 27th day of February, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P3 detention notice whereby a consignment of electrical goods, that was being transported from Bangalore to Kalamassery at the instance of the petitioner, was detained by the check post authorities at Walayar. 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 Smt.Latha K., 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, it is seen that, the objection of the respondents is that, notwithstanding that the goods were consigned to the petitioner, and the delivery of the goods shown to a place in Palakkad, there was no document that showed the sale of the goods, by the petitioner at Cochin, to the consignee at Palakkad. In that view

of the matter, the detention at the hands of the respondents cannot be said to be unjustified. I take note, however, of the fact the petitioner is a registered dealer in the State and direct the 3rd respondent to release the goods and the vehicle, subject to the condition that the petitioner pays 25% of the amount demanded as security deposit in Ext.P3 notice and executing a simple bond without sureties for the balance amount therein before the 3rd respondent.

(ii) 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 3rd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/27/02/