

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 6595 of 2015 (Y)

PETITIONER(S):

**WIPRO GE HEALTHCARE PVT.LTD,
NO.40/2, SEDARAPET ROAD, THONDAMAN,
PUDUCHERRY 605502
AND PLACE OF BUSINESS AT COCHIN AT
5TH FLOOR, ARYABHANGI PINNACLE, ERNAKULAM
COCHIN - 682 020
REPRESENTED BY ITS AUTHORISED SIGNATORY
SRI.IGNATIUS M DAVID.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD**

RESPONDENT(S):

**COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAXES CHECK POST,
WALAYAR**

R BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR.S.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REGISTRATION CERTIFICATE DATED 16.7.2014.

EXT.P2: COPY OF THE PURCHASE ORDER DATED 14.11.2014.

EXT.P3: COPY OF INVOICE BEARING NO.1490200708.

EXT.P3(A): COPY OF INVOICE BEARING NO.1490200709 DATED 12.2.2015.

EXT.P3(B): COPY OF INVOICE BEARING NO.1490200710 DATED 12.2.2015.

EXT.P4: COPY OF PACKING LIST FOR INVOICE BEARING NO.1490200708.

EXT.P4(A): COPY OF PACKING LIST FOR INVOICE BEARING NO.1490200709.

EXT.P4(B): COPY OF PACKING LIST FOR INVOICE BEARING NO.1490200710.

EXT.P5: COPY OF FORM 16 DECLARATION FOR INVOICE BEARING NO.1490200708 DATED 27.2.2015.

EXT.P5(A): COPY OF FORM 16 DECLARATION FOR INVOICE BEARING NO.1490200709 DATED 27.2.2015.

EXT.P5(B) COPY OF FORM 16 DECLARATION FOR INVOICE BEARING NO.1490200710 DATED 27.2.2015.

EXT.P6: COPY OF NOTICE DATED 27.2.2015.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6595 OF 2015 (Y)

Dated this the 2nd day of March, 2015

J U D G M E N T

The petitioner is aggrieved by Ext.P6 notice issued to him, detaining a consignment of medical equipments, that was being transported from Pondicherry to Thiruvananthapuram, at the instance of the petitioner, at Walayar check post. In the writ petition, the petitioner is aggrieved by the insistence of the respondent that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. I have heard Sri.A.Kumar, the learned counsel appearing for the petitioner and also Sri.Sudheesh 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.P6 detention notice, it is seen that the objection of the respondent is essentially that the goods were being consigned from Puducherry to Thiruvananthapuram when the consignor had a branch at Ernakulam. The respondent therefore

suspected that the transportation was essentially of goods that had been sold from the branch at Ernakulam, and was being consigned directly from Pondicherry, so as to evade tax payable locally under the KVAT Act. I do not find any justification in such suspicion on the part of the respondent on the basis of the documents that admittedly accompanied the goods that were being transported.

(ii) Taking note of the fact, however, that the branch of the petitioner is a registered dealer within the State, I direct the respondent to release the goods and the vehicle subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P6 notice, 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, untrammelled by the observations in this judgment.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE