

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 6890 of 2015 (I)

PETITIONER :

**NOVATEUR ELECTRICAL & DIGITAL SYSTEMS (PVT.) LTD.,
CC. 39/5896 B, MERLIN HOUSE, PARAMBITHARA CROSS ROAD,
PANAMPILLY NAGAR, COCHIN-682 036, ERNAKULAM DISTRICT,
REPRESENTED BY MR. N.KARTHIK- AUTHORISED SIGNATORY.**

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

RESPONDENT :

**THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
GOPALAPURAM-678 555, PALAKKAD DISTRICT.**

BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER, ISSUED BY THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE-III, DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM.**
- P2 COPY OF THE TAX INVOICE-CUM- DELIVERY CHALLAN NO.2800008451 DATED 20/02/2015, FOR RS.2,63,742/- ISSUED BY THE PETITIONER.**
- P3 COPY OF THE TAX INVOICE-CUM- DELIVERY CHALLAN NO.2800008452 DATED 20/02/2015, FOR RS.1,56,576/- ISSUED BY THE PETITIONER.**
- P4 COPY OF THE TAX INVOICE-CUM-DELIVERY CHALLAN NO.2800008456 DATED 21/02/2015, FOR RS.1,55,066/- ISSUED BY THE PETITIONER.**
- P5 COPY OF THE TAX INVOICE-CUM-DELIVERY CHALLAN NO.2800008457 DATED 21/02/2015, FOR RS.63,280/- ISSUED BY THE PETITIONER.**
- P6 COPY OF THE TAX INVOICE-CUM-DELIVERY CHALLAN NO.2800008501 DATED 27/02/2015, FOR RS.1,66,144/- ISSUED BY THE PETITIONER.**
- P7 COPY OF THE E-CONSIGNMENT DECLARATION IN FORM NO.8F VIDE TOKEN NO.32070499233/2014-15/541 DATED 28/02/2015, ISSUED BY THE PETITIONER.**
- P8 COPY OF THE NOTICE NO.1504/2014-15 ISSUED BY THE RESPONDENT COMMERCIAL TAX INSPECTOR**
- P9 COPY OF THE REPLY LETTER DATED 28/02/2015 FILED BY THE PETITIONER.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6890 OF 2015

Dated this the 4th day of March, 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.P8 notice issued to him detaining a consignment of battery that was being transported at the instance of the petitioner at the Gopalapuram check post. 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.P8 detention notice, it is seen that the objection of the respondent is essentially with regard to the declaration in Form 8F that accompanied the goods. The said

document indicated that the transportation was pursuant to an interstate stock transfer. There was also a mention of five invoices, four of which were dated five days before the date of transportation. Under the said circumstances, it cannot be said that the suspicion on the part of the respondents was unjustified.

(ii) I take note, however, of the fact that petitioner is a registered dealer in the State and direct the respondent to release the goods and the vehicle on condition that the petitioner pays 25% of the security deposit amount demanded in Ext.P8 and furnishes a simple bond without surety for the balance amounts demanded therein 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

