

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No.7036 of 2015 (D)

PETITIONER:

**CERA SANITARYWARE LTD.,1ST FLOOR,
JACOB'S,33-326B,CHALIKAVATTAM,
VYTTILA N.H BYE-PASS 47,ERNAKULAM,
COCHIN-682019,REPRESENTED BY ITS
SENIOR EXECUTIVE DEPOT OPERATION
MR.JAYARAGHAVAN P.M.**

**BY ADVS.SMT.K.LATHA
SMT.M.K.HAJARA**

RESPONDENTS:

- 1. THE STATE OF KERALA,REPRESENTED BY
CHIEF SECRETARY,SECRETARIATE,
THIRUVANANTHAPURAM-695001.**
- 2. INTELLIGENCE INSPECTOR,SQUAD NO.1,
DEPT.OF COMMERCIAL TAX,
MATANCHERY-682005.**

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1A:THE TRUE COPY OF THE INVOICE NO.2175 DATED 4.2.2015 ISSUED BY
M/S.LENZ CERAMIC PVT.LTD.,GUJARAT, TO THE PETITIONER.

EXT.P1B:THE TRUE COPY OF THE INVOICE NO.2217 DATED 4.2.2015 ISSUED BY
M/S.WHITE HOUSE TILES PVT. LTD., GUJARAT TO THE PETITIONER.

EXT.P2A:THE TRUE COPY OF FORM 8F 32070236782/2014-15/892 DECLARING
THE INVOICE OF M/S.LENZ CERMIC PVT. LTD., GUJARAT
DATED 28.2.2015.

EXT.P2B:THE TRUE COPY OF FORM 84 32070236782/2014-15/893 DECLARING
THE INVOICE OF M/S.WHITE HOUSE TILES PVT. LTD., GUJARAT,
DATED 28.2.2015.

EXT.P3A:THE TRUE COPY OF INTERNAL SHIPMENT BILL OF ENTRY
DATED 12.2.2015.

EXT.P3B:THE TRUE COPY OF SHIPPING BILL NO.1267 OF ANTRAPPER WATER
WAYS DATED 13.2.2015.

EXT.P3C:THE TRUE COPY OF SHIPPING BILL NO.007403 OF GLOBAL SHIPPING
COMPANY DATED 13.2.2015.

EXT.P4:THE TRUE COPY OF THIS INVOICE VIDE NO.SI/TL/CCN/1415/01772
DATED 28.2.2015 ISSUED BY THE PETITIONER TO M/S.MARVEL
MARBLES, ALAPPUZHA.

EXT.P5:THE TRUE COPY OF THE DETENTION NOTICE NO.OR.1005/14-15
DATED 01.03.2015 ISSUED BY THE SECOND RESPONDENT U/S 47(2) OF
THE KVAT ACT TO THE PETITIONER.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 7036 of 2015 (D)
.....

Dated this the 6th day of March, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P5 detention notice whereby a consignment of ceramic tiles, that was being transported at the instance of the petitioner, was detained by the respondent authorities at Palarivattom. 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 Smt.Sobha Annamma Eappen, 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.P5 detention notice, it is seen that, the objection on the part of the respondents is essentially that, the declaration in Form 8FA did not accompany the goods. Further, the invoice that accompanied the transportation was seen raised from Kunammavu, but the container was loaded from Vallarpadam. It was also noticed that, the consignment was despatched on 02.03.2015, but the vehicle was intercepted on 01.03.2015 at 21.30 hours. It was under these

circumstances genuineness of the transaction was suspected.

(ii) The learned counsel for the petitioner would point out that, the goods in question were imported in a container that was sealed by the customs authorities. Even at the time of detention, it was not in dispute that, the customs seal was not opened. It is also pointed out that, the entire consignment was intended for the consignee, shown in Ext.P4 invoice that was produced by the petitioner. In that view of the matter, and considering the fact that the petitioner is a registered dealer in the State, I direct the 2nd respondent to release the goods and vehicle to the petitioner, on the petitioner furnishing a simple bond without sureties for the security deposit amount demanded in Ext.P5 detention notice, before the 2nd respondent.

(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 2nd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE