

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. 7259 of 2015 (F)

PETITIONER(S) :

**TATA TELESERVICES LIMITED,
8TH FLOOR, S.L.PLAZA, PALARIVATTOM,
COCHIN.**

BY ADV. SRI.A.KUMAR

RESPONDENT(S) :

**THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, MALAPPURAM- 676 001.**

BY GOVERNMENT 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:**

Msd.

WP(C).No. 7259 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE REGISTRATION CERTIFICATE
DATED 28.05.2007.**

EXHIBIT P2: A TRUE COPY OF THE NOTICE DATED 28.02.2015.

EXHIBIT P3: TRUE COPY OF REPLY DATED 01.03.2015.

**EXHIBIT P4: A TRUE COPY OF THE REGISTRATION CERTIFICATE OF TATA
TELESERVICES LTD, KOLKATA DATED 02.08.2007.**

EXHIBIT P5: TRUE COPY OF THE WAY BILL DATED 27.02.2015.

EXHIBIT P5(A): TRUE COPY OF THE ACKNOWLEDGEMENT OF WAY BILL.

EXHIBIT P6: TRUE COPY OF THE STOCK TRANSFER NOTE 26.02.2015.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 7259 of 2015 (F)

.....
Dated this the 6th day of March, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P2 detention notice whereby, a consignment of telecommunication and transmission equipments, that was being transported at the instance of the petitioner, was detained by the respondents. 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.A.Kumar, 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.P2 notice, it is seen that the objection of the respondents is essentially that , although the transportation was pursuant to a stock transfer, the goods were accompanied by a delivery note in Form 15 that indicated that the transportation was pursuant to an interstate sale to the petitioner company itself. The learned counsel

for the petitioner has clarified that this was a mistake in the delivery note and, at any rate, the delivery note was the relevant document to accompany the transportation in accordance with Section 46(3) of the KVAT Act. In that view of the matter, and considering the fact that the petitioner is a registered dealer in the State, I direct the 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.P2 detention notice, before the respondent.

(ii) 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.

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/06/03/