

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 7838 of 2015 (D)

PETITIONER :

**M/S.GODREJ & BOYCE MFG. CO. LTD.,
SECOND FLOOR, 'ANGELS ARCADE', COCHIN UNIVERSITY P.O.,
SOUTH KALAMASSERY, KOCHI - 682022,ERNAKULAM DISTRICT
REPRESENTED BY ITS KOCHI BRANCH, SENIOR MANAGER FINANCE,
SRI. RAMESH PAI V.P. AGED 49 YEARS.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENTS :

- 1. INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, SQUAD NO. IV, EDAPPALLY,
COCHIN - 682024.**
- 2. ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, SPECIAL CIRCLE -I,
SALES TAX COMPLEX, COCHIN - 682015.**

R1 & R2 BY SENIOR GOVERNMENT PLEADER SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF INTERSTATE STOCK TRANSFER INVOICE NO. 694357 DT 20/2/2015 FOR RS 2,15,760/- RAISED BY THE HEAD OFFICE OF THE PETITIONER ON ITS COCHIN BRANCH AGAINST ISSUANCE OF 'F' FORM DECLARATION, FOR TRANSPORT OF ONE CURRENCY COUNTING MACHINE.**
- P2: COPY OF RECEIPT NO. 364738514 DATED 20/2/2015 ISSUED BY ON DOT COURIERS & CARGO LTD; FOR AIR FREIGHT OF EXT P1 GOODS FROM MIMBAI TO COCHIN, WHEREIN STOCK TRANSFER INVOICE NUMBER MENTIONED.**
- P3: COPY OF ONLINE DECLARATION IN FORM NO. 8FA NO. 320720/8FA/24815/2014 DT 21/2/2015 FOR RS. 2,15,760/- GENERATED BY THE PETITIONER, FOR FACILITATING ONWARD TRANSPORTATION N THE BASIS OF EXT P1 AND P2.**
- P4: COPY OF NOTICE OR NO. 755/2014-15 DT 25/2/2015 ISSUED TO THE PETITIONER BY THE R1, THROUGH THE TRANSPORTER, DEMANDING SECURITY DEPOSIT F RS 68.830/- U/S. 47(2) TO THE KVAT ACT, STATING THAT NO DECLARATION SEAL OF ENROOT CHECK POST AVAILABLE IN EXT P1.**
- P5: COPY OF LETTER ISSUED BY THE FRANCHISEE TO ON DOT COURIERS & CARGO LTD; STATING THAT CONSIGNMENT MOVED TO COCHIN BY AIR MODE ON 21/2/2015.**
- P6: COPY OF REPLY DT 9/3/2015, SUBMITTED BY THE PETITIONER, BEFORE THE R1, AGAINST EXT. P4 NOTICE OF DETENTION.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 7838 of 2015 (D)

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Dated this the 12th day of March, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P4 detention notice whereby, a consignment comprising of a currency counting machine, was detained at the parcel office, where it was transported to at the instance of the petitioner. 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.Tomson T.Emmanuel, 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.P4 detention notice, it is seen that, the objection of the respondents is essentially that the goods, which were shown as stock transferred interstate, had not been declared in any of the border check posts. The learned counsel for the petitioner would contend that the movement of the goods was by air and therefore, there was no question of declaring the goods at any border check post. I note, however, that in the detention notice, the details of documents accompanying the goods, refers only to a stock transfer chalan and hence, there was no possibility

of the respondents verifying whether the goods had actually come by air or through any other mode of transport. In the Form 8FA, that is stated to have been filed by the petitioner, a reference is made to an RR number, referring to the courier package, and this has been noted in the detention notice as well. Inasmuch as the consignment was not accompanied by the documents prescribed under the KVAT Act, the detention on the part of the respondents cannot be said to be unjustified. I take note, however, of the fact that the petitioner is a registered dealer in the State and direct the 1st respondent to release the goods to the petitioner, subject to the condition that the petitioner pays 25% of the amount demanded as security deposit in Ext.P4 detention notice, and executing a simple bond without sureties for the balance amount demanded therein, before the 2nd 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 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

