IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No.8129 of 2015 (M)

PETITIONER:

M/S.SFO TECHONOLOGIES PVT.LTD,
PLOT NO.2,COCHIN SPECIAL ECONOMI ZONE,
KAKKANAD,KOCHI-682037,AND HAVING
ITS REGISTERED OFFICE AT STONE HOUSE,
MARKET ROAD,ALUVA-683101,REPRESENTED
BY ITS COMPANY SECRETARY,SHRI.K.PADMANABHAN.

BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS

RESPONDENTS:
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1. **STATE OF KERALA,REPRESENTED BY ITS SECRETARY TO GOVERNMENT, TAXES DEPARTMENT,GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.**

2. **THE COMMISSIONER OF COMMERCIAL TAXES, TAX TOWER,KILLIPPALAM,KARAMANA P.O., THIRUVANANTHAPURAM-695002.**

3. **THE COMMERCIAL TAX INSPECTOR, COMMERCIAL TAX CHECK POST, MUTHANGA-673592.**

BY GOVERNMENT PLEADER SMT.RINNY STEPHEN CHAMAPARAMBIL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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W.P(C) NO.8129/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE INVOICE NO.NMT/NSEZ/G/FY15/025 DATED 20.2.2015 AND THE ACCOMPANYING PACKING LIST.

EXT.P2:TRUE COPY OF THE BILL ENTRY FOR HOME CONSUMPTION NO.0002525 DATED 23.2.2015.

EXT.P3:TRUE COPY OF THE GOODS RECEIPT NO.5751 DATED 27.2.2015 ISSUED BY THE TRANSPORTER,M/S.GOLDEN PACKERS AND MOVER PVT.LTD., DELHI.

EXT.P4:TRUE COPY OF THE E-CONSIGNMENT DECLARATION DATED 27.2.2015.

EXT.P5:TRUE COPY OF THE NOTICE OR NO.3413/14-15 DATED 8.3.2015 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT.

EXT.P6:TRUE COPY OF THE REPLY DATED 11.3.2015 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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K. VINOD CHANDRAN, J.

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W.P.C. No.8129 of 2015

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Dated this the 17th day of March, 2015.

J U D G M E N T

The petitioner is aggrieved with the detention of goods as per Ext.P5. The petitioner contends that it is a Zone to Zone Transfer effected under the Special Economic Zone Act, 2005 and the Special Economic Zone Rules, 2006. The transport of goods is from the Special Economic Zone at Noida to the Special Economic Zone situated in Kakkanad, Kochi. The mode of transport is said to be preceded by the filing of the bill of entry for home consumption, with the authorised officer under the Customs Act in quintuplicate, giving description of the goods along with the invoice and packing list, for assessment as provided under Rule 30 (15) (1) of the Special Economic Zone Rules, 2006. On endorsement being made and the valuation being effected, the goods are transported with the bill of entry and also the packing list and the invoice.

2. The detention has been made for three reasons.

i) The actual invoice is not seen accompanied`

ii) On verification the assessee is not seen to have authorised to bring the machinery.

iii) The consignor fails to prove that the consignment actually belongs to the Special Economic Zone, Kakkanad.

3. True, the bill of lading with respect to proof of consignment being transmitted to the Special Economic Zone was not accompanying the goods. However, the same is said to have produced by Ext.P6. With respect to the verification as to the actual invoice being not accompanied, column No.9 in Ext.P5 with respect to details of documents accompanied shows that the invoice was accompanying the goods. It is not clear as to what the check post officer meant by the “actual invoice” not accompanying the goods.

4. A verification of the invoice produced as Ext.P1 and the bill of entry at Ext.P2 would indicate that the goods

transported are the very same. The description tallies as per the invoice and the bill of entry .

4. In such circumstance, it is only proper that the goods be released to the petitioner on executing a simple bond without sureties. The adjudication shall be continued and concluded untramelled by the observations made herein which is only in the nature of prima facie observations.

. The writ petition is disposed of.

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K. VINOD CHANDRAN.
JUDGE

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