

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

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

WP(C).No. 8144 of 2015 (P)

PETITIONER :

**SUPERTRON ELECTRONICS PRIVATE LIMITED
SURAAJ DOOR NO. 27/77, PLOT 188, 8TH CROSS ROAD,
GIRINAGAR HOUSING COLONY ERNAKULAM -682020
REPRESENTED BY ITS AUTHORIZED SIGNATORY
SRU. JACOB GEORGE, AGED 47 YEARS.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD**

RESPONDENT :

**THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, WALAYAR**

BY SENIOR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPPEN

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

bp

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF THE REGISTRATION CERTIFICATE DT 11/9/2007.

P2: COPY OF THE INVOICE DT 11/2/2015.

P2(a): COPY OF THE INVOICE DT 12/2/2015.

P2(b): COPY OF THE INVOICE DT 23/2/2014.

P2(c): COPY OF THE INVOICE DT 25/2/2015.

P2(d): COPY OF THE INVOICE DT 3/3/2015.

P3: COPY OF STOCK TRANSFER NOTE DT 3/3/2015.

P4: COPY OF THE TRANSACTION SLIP DT 3/3/2015.

P5: COPY OF THE NOTICE DT 7/3/2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 8144 of 2015 (P)

.....
Dated this the 17th day of March, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P5 detention notice whereby, a consignment of projectors that was being transported at the instance of the petitioner, was detained by the respondent at Walayar. 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 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.P5 detention notice, it is seen that, the objection of the respondent is essentially with regard to the classification of the item, as effected by the petitioner. While the Form 8F declaration showed the item transported as computer systems and peripherals, in fact the item in question, was being classified by the petitioner within the State as electronic goods, and tax discharged locally at 14.5%. In that view of the matter, the detention on the part of the respondent

cannot be said to be unjustified. The learned counsel for the petitioner submits that, the petitioner is ready to pay the entire amount of tax applicable to the item, within the State of Kerala, by way of advance tax. Recording the said submission of the learned counsel for the petitioner, I direct the respondent to release the goods and vehicle to the petitioner on the petitioner producing proof of payment of advance tax before the respondent, and executing a simple bond without sureties for the value of the goods as shown in Ext.P5 detention notice.

(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/17/03/

