

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 8145 of 2015 (P)

PETITIONER(S):

**M/S.WIPRO GE HEALTHCARE (P) LTD.,
4, KADUGODI INDUSTRIAL AREA,
BANGALORE-560 067, BRANCH @: 5TH FLOOR,
ARYA BHANGI PINNACLE, ELAMKULAM,
S.A. ROAD, KOCHI-682 020, REPRESENTED BY ITS
AUTHORISED SIGNATORY SRI.ASMITH KRISHNA T.A.**

**BY ADVS.SRI.A.KUMAR,
SRI.P.J.ANILKUMAR,
SMT.G.MINI,
SRI.P.S.SREE PRASAD.**

RESPONDENT(S):

**INTELLIGENCE OFFICER,
SQUAD NO.V, MATTANCHERRY,
AT MINI CIVIL STATION, PERUMBAVOOR - 683 542.**

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 - A TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 16-07-2014.
- EXT.P2 - TRUE COPY OF THE PURCHASE ORDER DATED 14-08-2014.
- EXT.P3 - TRUE COPY OF INVOICE DATED 20-02-2015.
- EXT.P4 - TRUE COPY OF THE CERTIFICATE OF OWNERSHIP DATED 06-03-2015.
- EXT.P5 - TRUE COPY OF THE CERTIFICATE OF OWNERSHIP DATED 06-03-2015.
- EXT.P6 - TRUE COPY OF THE NOTICE DATED 12-03-2015.
- EXT.P7 - TRUE COPY OF THE PURCHASE INVOICES RAISED DATED 05-08-2014.
- EXT.P7(A) - TRUE COPY OF THE PURCHASE INVOICE RAISED DATED 31-07-2014.
- EXT.P8 - TRUE COPY OF THE DELIVERY NOTE OF INVOICE RAISED DATED 05-08-2014.
- EXT.P8(A) - TRUE COPY OF THE DELIVERY NOTE OF INVOICE RAISED DATED 31-07-2014.
- EXT.P9 - A TRUE COPY OF THE MONTHLY RETURNS FOR AUGUST 2014-15.
- EXT.P10- TRUE COPY OF THE E-CHALLAN EVIDENCING RECEIPT FOR PAYMENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 8145 of 2015

Dated this the 19th day of March, 2015

JUDGMENT

Petitioner is a registered dealer to Kerala Value Added Tax Act (hereinafter referred to as 'KVAT Act') is aggrieved by Ext.P6 notice issued to him detaining a consignment comprising of CT Scanner, that was being transported for M/s. Devi Scans Pvt.Ltd. A copy of the detention notice was also served on the petitioner, which is the branch office of the vendor. In the writ petition, the petitioner is aggrieved by the insistence of the respondent that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. I have heard the learned counsel appearing for the petitioner and also Smt.Sobha Annamma Eappen, the learned Government Pleader appearing for the respondent.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:

- (i) On a perusal of Ext.P6 detention notice, it is seen that the objection of the respondent is essentially

with regard to the fact that the goods were being transported to Trivandrum as part of replacement machine in replacement of an existing machine that had already been supplied to M/s.Devi Scans Pvt. Ltd. The agreement entered into between the Head Office of the petitioner and M/s. Devi Scans Pvt.Ltd., indicated that there would be an amount of Rs.1 crore, which would be reduced from the price of the machine, that was being transported at the time when the old machine was re-transported to the Head Office of the petitioner. It is not in dispute, however, that the transportation of the goods was accompanied by valid documents that were prescribed under the KVAT Act. The only objection of the respondent is that M/s. Devi Scans Pvt.Ltd., the consignee was not a registered dealer but had transported the goods under cover of an on-line Form-16. I take note, however, of the fact that although the consignee is not a registered dealer, and the petitioner's office in Kerala is also not an integral part of the transaction for the buy-back of the old machine, there was no discrepancy with regard to the documents that accompanied the transportation of the new machine, that is covered in Ext.P6 notice. Under the said circumstances, I direct the respondents to release the goods and the vehicle covered by the detention notice, to the petitioner, on the office of the petitioner at Ernakulam, furnishing a simple bond without sureties for the Security deposit amount demanded in the 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE