

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.8326 of 2015 (M)

PETITIONER:

**M/S.GLAXO SMITHLINE CONSUMER HEALTH CARE LTD,
PIPELINE JUNCTION,CHANGAMPUZHA P.O.,KOCHI-682035,
REPRESENTED BY ITS ASST.MANAGER L.UMASANKAR.**

**BY ADVS.SMT.S.K.DEVI
SRI.M.RAJ MOHAN
SRI.SANTHOSH P.ABRAHAM
SMT.P.K.MAYA DEVI
SRI.SHANMUGHAM D.JAYAN**

RESPONDENTS:

- 1. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
VELANTHAVALAM-678558.**
- 2. THE ASST.COMMISSIONER (ASSMT),
DEPT. OF COMMERCIAL TAXES,
SPL.CIRCLE-III,ERNAKULAM-682015.**
- 3. STATE OF KERALA,REPRESENTED BY
ITS FINANCE SECRETARY,SECRETARIAT,
THIRUVANANTHAPURAM-695001.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN.

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

pk

W.P(C) NO.8326/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPYOF THE NOTICE NO.OR/771/14-15 DATED 4.3.2015.

EXT.P2:TRUE COPY OF THE STOCK TRANSFER ADVICE NO.1783 DATED 2.3.2015.

EXT.P2(a):TRUE COPY OF THE 8F DECLARATION.

EXT.P2(b):TRUE COPY OF THE E.SUGAM FORM NO.14957200299 DATED 2.3.2015.

EXT.P3:TRUE COPY OF THE REQUEST HANDED OVER TO THE FIRST
RESPONDENT ON 6.3.2015.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.8326 of 2015

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

JUDGMENT

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P1 notice issued to him detaining a consignment of branded food products that was being transported 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. I have heard the learned counsel for the petitioner and also 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.P1 detention notice, it is seen that the objection of the respondents is essentially with regard to the documents that accompanied the transportation of the goods. It is stated that the transportation was covered by a stock transfer advice, which is not a document that is contemplated under Section 46 of the KVAT Act. Counsel for the petitioner would rely

on Ext.P2(a) Form 8F declaration which is seen generated prior to the date of detention, which refers to the stock transfer advice that accompanied the transportation of the goods.

(ii) The stock transfer advice is also produced as Ext.P2 and would show that it contained the necessary details with regard to the goods and details of the petitioner who is a registered dealer in the State of Kerala. Under the circumstances, I direct the 1st respondent to release the goods and the vehicle to the petitioner on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P1 notice before the 1st respondent.

(iii) The 1st 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.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

