IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No.9313 of 2015 (L)

PETITIONER:

M/S.FOCUZ MOTORS,(A UNIT OF FOCUZ CORPORATION PVT.LTD.,)
FOCUZ TOWERS,EDAPPALLY,KOCHI,REPRESENTED BY ITS
CHIEF EXECUTIVE OFFICER,TONY RAPHAEL.

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

RESPONDENTS:
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1. **THE INTELLIGENCE INSPECTOR,**
   O/O.THE INSPECTING ASST.COMMISSIONER,
   (INTELLIGENCE) DEPARTMENT OF COMMERCIAL TAXES,
   ALAPPUZHA-689121.

2. **THE ASST.COMMISSIONER (ASSMT.),**
   DEPARTMENT OF COMMERCIAL TAXES,
   SPECIAL CIRCLE-I,ERNAKULAM-682015.

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.9313 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE NOTICE NO.OR 732/14-15 DATED 19.3.2015.

EXT.P2:TRUE COPY OF THE REPLY DATED 19.3.2015.

EXT.P3:TRUE COPY OF THE STATEMENT.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 9313 of 2015

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Dated this the 24th day of March, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P1 notice issued to him detaining an autorickshaw vehicle that was being transported at his instance. 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 appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

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.P1 notice, it is seen that the objection of the respondents is essentially with regard to the document that accompanied the transportation of the goods. It is noted that the tax invoice that accompanied the transportation of goods did not contain the TIN number of the consignor and further it was not apparent as to

whether the invoice was in Form 8 or Form 8B. The learned counsel for the petitioner would submit that the discrepancy with regard to the consignor's TIN number was occasioned because of a wrong input of the details in the computer generated invoice. That apart, the petitioner is also a registered dealer within the State. On a consideration of the facts and circumstances of the case, I direct the 1st respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in Ext.P1 notice, before the 1st 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

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