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. 9416 OF 2015 (B)

PETITIONER(S):

RENISH MATHACHAN, PROPRIETOR, M/S. BUSINESS CONNECTIONS, CC 28/993, PONNETH TEMPLE ROAD, KADAVANTHARA, COCHIN-682 020

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):
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1. INTELLIGENCE INSPECTOR, COMMERCIAL TAXES, SQUAD NO.VIII, SALES TAX COMPLEX, THEVARA, COHIN-682015.

2.COMMERCIAL TAX OFFICER, COMMERCIAL TAXES, 2ND CIRCLE, THRIPUNITHURA, COHIN-682 301

3. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM 695 001

BY GOVERNMENT PLEADER SMT.LILLY K.T.

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

WP(C).NO. 9416 OF 2015 (B)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1.: TRUE COPY OF REGISTRATION CERTIFICATE DATED 25.07.2007 ISSUED TO THE PETITIONER UNDER THE KVAT AND CST ACTS BY THE 2ND RESPONDENT

EXT.P2:TRUE COPY OF TAX INVOICE NO.VIL/14-15/3327 DATED 28.02.2015 RAISED BY M/S.VINTRON INFORMATICS LTD; NEW DELHI ON THE PETITIONER, AGAINST 'C' FORM FORM DECLARATION.

EXT.P2(A):TRUE COPY OF TAX INVOICE NO.VIL/14-15/3331 DATED 28.02.2015 RAISED BY M/S.VINTRON INFORMATICS LTD; NEW DELHI ON THE PETITIONER, AGAINST 'C' FORM FORM DECLARATION.

EXT.P2(B):TRUE COPY OF TAX INVOICE NO.VIL/14-15/3333 DATED 28.02.2015 RAISED BY M/S.VINTRON INFORMATICS LTD; NEW DELHI ON THE PETITIONER, AGAINST 'C' FORM FORM DECLARATION.

EXT.P3: TRUE COPY OF E-CONSIGNMENT MANUAL OF THE DEPARTMENT OF COMMERCIAL TAXES, KERALA STATE, INTRODUCING TRANSACTION SLIP WITH TRANSACTION ID FOR THE GOODS BOOKED THROUGH PARCEL/COURIER, BY REGISTERED DEALERS

EXT.P4: TRUE COPY OF ONLINE DECLARATION HAVING TRANSACTION ID 320711/PA01/7605/2014 DATED 03.03.2015 GENERATED BY THE PETITIONER AS PER EXT.P2 E-CONSIGNMENT MANUAL BY THE PETITIONER AS PER EXT.P2 E-CONSINGMENT MANNUAL IN KAVATIS, ACCOMPANIED WITH EXT.P3 TO P3(B) TAX INVOICES.

EXT.P5: TRUE COPY OF NOTICE NO.OR.874/14-15 DATED 04.03.2015 ISSUED U/S 47(2) TO THE KVAT ACT, BY THE 1ST RESPONDENT THROUGH THE TRANSPORTER, WITHOUT ISSUING ANY NOTICE TO THE TRANSPORTING AGENCY FOR ANY MISTAKE FROM THEIR END.

EXT.P6: TRUE COPY OF REPLY DATED 18.03.2015 AGAINST EXT.P5 NOTICE SUBMITTED BEFORE THE 1ST RESPONDENT BY THE PETITIONER

EXT.P6(A);TRUE COPY OF ONLINE DECLARATION IN FORM NO8FA DATED 05.03.2015 GENERATING THE DECLARATION ON THE BASIS OF EXT.P4 TRANSPORTER.

RESPONDENTS' EXHIBITS: **NIL**

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.9416 of 2015

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Dated this the 24th day of March, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P5 notice issued to him detaining a consignment electronic goods 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.P5, it is seen that the objection of the respondents is essentially with regard to the fact that the transportation was not accompanied by 8FA declaration as mandated under the Kerala Value Added Tax Act. Counsel for the petitioner would point out that the consignment was accompanied by a

transaction slip that was generated by the petitioner in the KVATIS Software.

(ii) In that view of the matter, and considering the fact that the transportation of the goods was accompanied by valid invoice as stipulated under Section 46 (3), and further, that the petitioner is a registered dealer in the State, I direct the 1st respondent to release the goods and the vehicle on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P5.

(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

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