

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No. 9985 of 2015 (W)

PETITIONER(S):

**ARYAOMNITALK WIRELESS SOLUTIONS PVT. LTD.,
AMBALAMUGAL, ERNAKULAM, PIN - 682 302,
REPRESENTED BY ITS ASSISTANT MANAGER,
MR.LIJO JOSE S.L.**

BY ADV. SMT.K.LATHA

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. THE INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES,
COMMERCIAL TAX CHECK POST,
WALAYAR - 661 006.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 9985 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: THE TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 8.10.2014
ISSUED BY CT OFFICE, 2ND CIRCLE, PERUMBAVOOR TO THE PETITIONER.**

**EXT.P2: THE TRUE COPY OF THE INVOICE NO.DCCI-ORT CG TO KOCHI 002 14-15
DATED 13TH MARCH 2015 ISSUED BY THE PETITIONER'S PUNE OFFICE TO
AIROIL FLARE GAS LTD., KRISHNAKRIPA, 9/300C, METRO NAGAR, 9,
MARADU, ERNAKULAM - 682 304.**

**EXT.P3: THE TRUE COPY OF THE TRANSACTION SLIP DTD.16.3.2015 ISSUED BY THE
PETITIONER AS CONSIGNER.**

**EXT.P4: THE TRUE COPY OF THE DETENTION NOTICE OR NO.5479/9/14-15
DTD.20.3.2015 ISSUED BY THE SECOND RESPONDENT U/S 47(2) OF THE
KVAT ACT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.9985 of 2015

.....
Dated this the 27th day of March, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P4 notice issued to him detaining a consignment digital HH Radios 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.P4, it is seen that the objection of the respondents is essentially with regard to the documents that had to accompany the transportation of the goods. It was found that the transportation was not accompanied by a valid Form 8F declaration, although, there was a transaction slip that

accompanied the transport. In view of the fact that the transportation was not accompanied by a valid declaration that was necessary under Section 46 (3) of the Kerala Value Added Tax Act, the detention on the part of the respondents cannot be said to be unjustified.

(ii) In that view of the fact, however, that the petitioner is a registered dealer in the State, I direct the 2nd respondent to release the goods and the vehicle to the petitioner on the petitioner paying 25% of the security deposit amount demanded and furnishing a simple bond without surety for the balance amount demanded in Ext.P4 to the 2nd respondent.

(iii) The 2nd 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

mns/

