

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. 10075 of 2015 (H)

PETITIONER(S):

**M/S. TECHSER POWER SOLUTIONS PVT. LTD.,
'TECHSER HOUSE', MES RING ROAD, 5TH CROSS,
SHARADAMBANAGAR, BANGALORE - 560 013,
REPRESENTED BY ITS MANAGER,
SRI.SHIBU JOSEPH.**

BY ADV. SRI.TOMSON T. EMMANUEL

RESPONDENT(S):

- 1. INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, SQUAD NO.IV,
THIRUVANANTHAPURAM - 695 033.**
- 2. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPRUAM - 695 001.**

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/

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF RATE CONTRACT PURCHASE ORDER
NO.TPE:578:NEWBRS:912:2014:KM DATED 4.12.2014 ISSUED BY CANARA
BANK, PREMISES AND ESTATE SECTION, THIRUVANANTHAPURAM FOR
SUPPLY OF 2 SETS 5KVA UPS SYSTEM WITH BATTERIES, ON BRANCHES.**

**EXT.P2: TRUE COPY OF TAX INVOICE NO.4663 DTD.24.3.2015 RAISED BY THE
PETITIONER FOR DELIVERY AT ATTINGAL BRANCH, PURSUANT TO EXT.P1
ORDER.**

**EXT.P2(a): TRUE COPY OF TAX INVOICE NO.4664 DTD.24.3.2015 RAISED BY THE
PETITIONER FOR DELIVERY AT TECHNOPARK BRANCH, PURSUANT TO
EXT.P1 ORDER.**

**EXT.P2(b): TRUE COPY OF TAX INVOICE NO.4664 DTD.24.3.2015 RAISED BY THE
PETITIONER FOR DELIVERY AT RH TRIVANDRUM BRANCH, PURSUANT
TO EXT.P1 ORDER.**

**EXT.P3: TRUE COPY OF FORM NO.16 ISSUED TO THE PETITIONER BY CANARA BANK
ACCOMPANIED WITH EXT.P2 TAX INVOICE.**

**EXT.P3(a): TRUE COPY OF FORM NO.16 ISSUED TO THE PETITIONER BY CANARA
BANK ACCOMPANIED WITH EXT.P2(a) TAX INVOICE.**

**EXT.P3(b): TRUE COPY OF FORM NO.16 ISSUED TO THE PETITIONER BY CANARA
BANK ACCOMPANIED WITH EXT.P2(b) TAX INVOICE.**

**EXT.P4: TRUE COPY OF NOTICE NO.871/14-15 DTD.26.3.2015 ISSUED TO THE
PETITIONER, BY 1ST RESPONDENT, U/S.47(2) OF THE KVAT ACT
DEMANDING SECURITY DEPOSIT.**

**EXT.P5: TRUE COPY OF REPLY DTD.26.3.2015 SUBMITTED BY THE PETITIONER
BEFORE 1ST RESPONDENT, AGAINST EXT.P4 NOTICE, BY E-MAIL.**

**EXT.P6: TRUE COPY OF CLARIFICATION NO.C3/24336/11/CT DTD.28.3.2012 ISSUED BY
CLARIFYING AUTHORITY U/S. 94 OF THE KVAT ACT, IN HOLDING NO TAX
LIABILITY FOR INTERSTATE WORKS CONTRACT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.10075 of 2015 (H)

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

JUDGMENT

The petitioner is aggrieved by Ext.P4 detention notice whereby a consignment of UPS Systems along with batteries, that was being transported at the instance of the petitioner, was detained by the respondent authorities. 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. Heard Sri.Tomson T.Emmanuel, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, 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 detention notice, it is seen that the objection on the part of the respondents is with regard to the fact that the consignment was in bulk and there was no document that supported the transportation of the goods to various sites, where the petitioner had to install the UPS systems. The learned counsel for the petitioner would submit that, the UPS systems were transported by him so as to supply the same

to three branches of the Canara Bank. I also take note of the fact that, the goods have already discharged tax under the CST Act, at the full rate of tax, inasmuch as there was an interstate sale involved. In that view of the matter, I direct the 1st respondent to release the goods and vehicle to the petitioner, on the petitioner furnishing a simple bond without sureties for the security deposit amount demanded in Ext.P4 detention 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

AMV/27/03/

