

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. 10076 of 2015 (H)

PETITIONER(S) :

**M/S. POLYCAB ELECTRICAL INDUSTRIES PVT. LTD.,
V/191H, PIPELINE ROAD, THRIKKAKARA P.O,
COCHIN- 682 021, REPRESENTED BY ITS MANAGER,
SRI.SEBASTIAN MADATHUMPADY.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S) :

- 1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAXES CHECK POST,
WALAYAR- 678 625.**
- 2. ASSISTANT COMMISSIONER (ASSMNT.),
COMMERCIAL TAXES, SPECIAL CIRCLE-III,
SALES TAX COMPLEX, COCHIN- 682 015.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

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

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF SYSTEM GENERATED DEBIT NOTE
NO.PEIHO/DRNT 1415/00127 DATED 23.03.2015 RAISED BY
THE PETITIONER ON THE SUPPLIER M/S.BARMECHA INDUSTRIES
PVT.LTD; ANDRA PRADESH, FOR INTERSTATE PURCHASE
RETURN OF FANS.
- EXT.P1(A): TRUE COPY OF SYSTEM GENERATED DEBIT NOTE
NO.PEIHO/DRNT 1415/00128 DATED 24.03.2015 RAISED BY
THE PETITIONER ON THE SUPPLIER M/S.BARMECHA
INDUSTRIES PVT.LTD; ANDRA PRADESH, FOR INTERSTATE
PURCHASE RETURN OF FANS.
- EXT.P1(B): TRUE COPY OF SYSTEM GENERATED DEBIT NOTE
NO.PEIHO/DRNT 1415/00130 DATED 24.03.2015 RAISED BY
THE PETITIONER ON THE SUPPLIER M/S.BARMECHA
INDUSTRIES PVT.LTD; ANDRA PRADESH, FOR INTERSTATE
PURCHASE RETURN OF FANS.
- EXT.P2: TRUE COPY OF ONLINE DELIVERY NOTE IN FORM NO.15
DATED 25.03.2015 FOR THE INTERSTATE PURCHASE RETURN OF
DEFECTIVE FANS, AFTER DUE MENTIONING OF EXT P1 TO P1(B).
- EXT.P2(A): TRUE COPY OF ONLINE DELIVERY NOTE IN FORM X
NO.361503255285315 DATED 25.03.2015 UNDER THE CONSIGNEE
STATE LAWS (GOVERNMENT OF TELANGANA) MADE AVAILABLE
BY THE SUPPLIER FOR RETURN OF DEFECTIVE FANS, AFTER
DUE MENTIONING OF EXT P1 TO P1(B).
- EXT.P3: TRUE COPY OF FORM NO.8F DECLARATION DATED 26.03.02015,
PRODUCED BY THE PETITIONER BEFORE 1ST RESPONDENT, FOR
PERMITTING TRANSPORT OF GOODS FROM KERALA TO
ANDRA PRADESH.
- EXT.P4: TRUE COPY OF NOTICE NO.568/4/2014-15 DATED 26.03.2015
ISSUED BY 1ST RESPONDENT, U/S.47(2) OF THE KVAT ACT
DEMANDING SECURITY DEPOSIT, THROUGH THE DRIVER, OF THE
TRANSPORT VEHICLE.
- EXT.P5: TRUE COPY OF REPLY DATED 26.03.2015 SUBMITTED BY
THE PETITIONER BEFORE 1ST RESPONDENT, AGAINST EXT P4
NOTICE.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 10076 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 fans, that was being transported at the instance of the petitioner, by way of return of goods to the original supplier situated at Telangana, 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 essentially with regard to the fact that the debit notes, that were found along with the goods, indicated that the goods had been consigned originally in the month of April and June, 2014; and hence, were being returned to the supplier at Telangana after the stipulated period of

six months permitted under the CST Act for claiming the benefits in respect of returned goods. The learned counsel for the petitioner would point out however that, the transportation needed to be covered only by valid documents as described under the KVAT/CST Act. In this case it is not in dispute that, the necessary documents accompanied the transportation of the goods. 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/