IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 10975 of 2015 (V)

PETITIONER :

M/S. SRS MULTIBRAND RETAIL PVT. LTD.,
CC NO.XXXIV/10, S-56, LULU INTERNATIONAL SHOPPING MALL,
EDAPPALLY, COCHIN-682 024, ERNAKULAM DISTRICT,
REPRESENTED BY ITS STORE MANAGER, SRI.JASEEL.K.P.

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):

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1. INTELLIGENCE INSPECTOR, COMMERCIAL TAXES,
   SQUAD NO.II, SALES TAX COMPLEX, THEVARA,
   COCHIN-682 015

2. COMMERCIAL TAX OFFICER, COMMERCIAL TAXES,
   1ST CIRCLE, KALAMASSERY AT KAKKANAD,
   COCHIN-682 030

3. INTELLIGENCE OFFICER, COMMERCIAL TAXES,
   SQUAD NO.II, SALES TAX COMPLEX, THEVARA, COCHIN-682 015

4. INSPECTING ASSISTNAT COMMISSIONER (INTELLIGENCE),
   SALES TAX COMPLEX, THEVARA, COCHIN-682 015.

R1 TO R4 BY GOVERNMENT PLEADER SMT. LILLY.K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).NO.10975/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE REGISTRATION CERTIFICATE DATED 26/11/2014 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT UNDER THE KVAT AND CST ACT.

P2 COPY OF THE INTERSTATE PURCHASE TAX INVOICE NO.92686227 DATED 25/03/2015 RAISED ON THE PETITIONER, WITH SEPARATE ARTICLE NUMBER FOR EVERY ITEM BILLED.

P2(A) COPY OF THE INTERSTATE PURCHASE TAX INVOICE NO.92686229 DATED 25/03/2015 RAISED ON THE PETITIONER, WITH SEPARATE ARTICLE NUMBER FOR EVERY ITEM BILLED.

P2(B) COPY OF THE INTERSTATE PURCHASE TAX INVOICE NO.92686230 DATED 25/03/2015 RAISED ON THE PETITIONER, WITH SEPARATE ARTICLE NUMBER FOR EVERY ITEM BILLED.

P2(C) COPY OF THE INTERSTATE PURCHASE TAX INVOICE NO.92686232 DATED 25/03/2015 RAISED ON THE PETITIONER, WITH SEPARATE ARTICLE NUMBER FOR EVERY ITEM BILLED.

P2(D) COPY OF THE INTERSTATE PURCHASE TAX INVOICE NO.92686233 DATED 25/03/2015 RAISED ON THE PETITIONER, WITH SEPARATE ARTICLE NUMBER FOR EVERY ITEM BILLED

P2(E) COPY OF THE INTERSTATE PURCHASE TAX INVOICE NO.92686234 DATED 25/03/2015 RAISED ON THE PETITIONER, WITH SEPARATE ARTICLE NUMBER FOR EVERY ITEM BILLED

P2(F) COPY OF THE INTERSTATE PURCHASE TAX INVOICE NO.92686235 DATED 25/03/2015 RAISED ON THE PETITIONER, WITH SEPARATE ARTICLE NUMBER FOR EVERY ITEM BILLED

P2(G) COPY OF THE INTERSTATE PURCHASE TAX INVOICE NO.92686236 DATED 25/03/2015 RAISED ON THE PETITIONER, WITH SEPARATE ARTICLE NUMBER FOR EVERY ITEM BILLED

P2(H) COPY OF THE INTERSTATE PURCHASE TAX INVOICE NO.92686278 DATED 25/03/2015 RAISED ON THE PETITIONER, WITH SEPARATE ARTICLE NUMBER FOR EVERY ITEM BILLED

P3 COPY OF THE COURIER RECEIPT NO.61180 DATED 26/03/2015 ISSUED BY SPARSH CARGO PVT. LTD., MENTIONING EXT.P2 TO P2(H) INVOICES, FOR TRANSPORT OF RM GOODS FROM HARYANA TO COCHIN

P4 COPY OF THE ONLINE DECLARATION IN FORM NO.8FA DATED 30/03/2015 AT 04.04 PM GENERATED BY THE PETITIONER, WITH CLEARING DATE TO 04/04/2015 ACCORDING TO THE INFORMATION FROM THE SUPPLIER.

P5 COPY OF THE NOTICE OR NO.II.1099/14-15 DATED 30/03/2015 ISSUED AT 6 PM BY THE 1ST RESPONDENT, THROUGH THE TRANSPORTER, DEMANDING SECURITY DEPOSIT U/S. 47(2) OF THE KVAT ACT, FOR THE REASON OF MENTIONING CLEARING DATE TO 04/04/2015 IN EXT.P4

P6 COPY OF THE REPLY DATED 20/03/2015 SUBMITTED BY THE PETITIONER BEFORE RESPONDENTS 1,3 AND 4 AGAINST EXT.P5 NOTICE

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No.10975 of 2015 (V)

...

Dated this the 1st day of April, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P5 detention notice whereby a consignment of ready made goods, 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.Lilly K.T., 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 detention notice, it is seen that, the objection on the part of the respondents is with regard to the date shown on the 8FA declaration. With reference to the date of clearing declared in the 8FA declaration, it is pointed out that, there was a possibility that by showing the date of clearance as 04.04.2015 the petitioner could clear further consignments up to 04.04.2015 under cover of the 8FA declaration

produced by him. The learned counsel for the petitioner would submit that, the Form 8FA declaration contained not only the date of clearing, but also identifies the consignment with details of the delivery note and the invoice numbers. It is contended therefore that, it is unlikely that, the same 8FA declaration can be used for transportation of other goods. I also take note of the fact that, the petitioner is a registered dealer in the State and direct the 1st respondent to release the goods to the petitioner, on condition that the petitioner furnishes a simple bond without sureties for the security deposit amount demanded in Ext.P5 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/01/04/