IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 24TH DAY OF APRIL 2015/4TH VAISAKHA, 1937

WP(C).No. 12572 of 2015 (V)

PETITIONER:

M/S. JOSH TECH SERVICES PVT LTD.,
PADIVATTOM, EDAPPALLY, KOCHI-682 015,
REPRESENTED BY ACCOUNTS MANAGER,
TIN NUMBER - 32071180037C.

BY ADVS.SRI.R.RAMAKRISHNAN POTTY
SRI.K.M.CHERIAN
SRI.V.P.SABU
SMT.GIRIJAVALLABHAN.P.M

RESPONDENT(S):

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1. THE COMMERCIAL TAX OFFICER,
   COMMERCIAL TAX DEPARTMENT,
   IIND CIRCLE, TRIPUNITHURA.

2. THE INTELLIGENCE INSPECTOR, SQUAD NO.V,
   DEPARTMENT OF COMMERCIAL TAXES,
   GOVERNMENT OF KERALA, ERNAKULAM.

3. THE STATE OF KERALA,
   REPRESENTED BY THE SECRETARY,
   DEPARTMENT OF COMMERCIAL TAXES,
   SECRETARIAT, THIRUVANANTHAPURAM-695 001.

BY GOVERNMENT PLEADER SRI.SUDHISH KUMAR.S

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 12572 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1. **PHOTOCOPY OF THE KVAT/CST REGISTRATION CERTIFICATE ISSUED BY THE 1ST RESPONDENT.**

EXT.P2. **PHOTOCOPY OF THE ESUGAM DECLARED BEFORE THE KARNATAKA VALUE ADDED TAX AUTHORITIES DATED 31/3/2015.**

EXT.P3. **PHOTOCOPY OF DELIVERY NOTE DATED 31/3/2015.**

EXT.P4. **PHOTOCOPY OF THE TRANSACTION SLIP MEANT FOR ROAD TRANSPORTATION THROUGH ONLINE IN FORM NO.8F DATED 31/3/2015.**

EXT.P5. **PHOTOCOPY OF THE NOTICE NO.OR.V-03/15/16 DATED 4/4/2015 ISSUED BY THE 2ND RESPONDENT.**

EXT.P6. **PHOTOCOPY OF THE REPLY LETTER TO THE NOTICE FILED BEFORE THE 2ND RESPONDENT DATED 10/4/2015.**

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

ANIL K.NARENDRAN, J

W.P.(C)No.12572 Of 2015

DATED THIS THE 24th DAY OF APRIL, 2015

JUDGMENT

The petitioner has filed this Writ Petition seeking a writ of certiorari to quash Ext.P5 notice issued by the second respondent under Section 47(2) of the Kerala Value Added Tax Act, by which the petitioner was asked to remit a sum of ₹31,351/- towards security for releasing the goods. The learned counsel for the petitioner would contend that the goods involved in transit are materials under stock transfer from Bangalore to Ernakulam and there is absolutely no evasion of tax as alleged in Ext.P5.

2. I heard arguments of the learned counsel for the petitioner and also the learned Government Pleader appearing for the respondents.

3. The legality or otherwise of the demand made in Ext.P5 cannot be considered at this stage in a writ petition filed under Article 226 of the Constitution of India. Since the petitioner has already filed objections against Ext.P5, it is for the second respondent to finalise of the same, as expeditiously as possible. In

the above circumstances, this Writ Petition is disposed of with the following directions:

The second respondent shall consider Ext.P6 objection filed by the petitioner against Ext.P5 and pass final orders thereon as expeditiously as possible, at any rate within a period of two months from the date of receipt of a certified copy of this judgment with notice to the petitioner. In the meantime, the goods detained on the strength of Ext.P5 shall be released to the petitioner, on the petitioner depositing before the second respondent 50% of the amount demanded in Ext.P5 as security and furnishing a simple bond for the balance amount.

Sd/-
ANIL K.NARENDRAN,
JUDGE

dsn