

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 19TH DAY OF MAY 2015/29TH VAISAKHA, 1937

WP(C).No. 14729 of 2015 (M)

PETITIONER :

**M/S.BAJAJ ELECTRICALS LTD.,
CRL HOUSE, 42/1107, TATA OIL MILLS ROAD, COCHIN-682 018,
REPRESENTED BY ASSISTANT GENERAL MANAGER,
BRANCH SALES SUPPORT CYRIAC THOMAS.**

**BY ADVS.SRI.V.DEVANANDA NARASIMHAM
SRI.P.H.RIYAS**

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, SQUAD NO.II, MINI CIVIL STATION,
TIRUR, MALAPPURAM-676 101**
- 2. THE ASSISTANT COMMISSIONER (ASSMENT),
COMMERCIAL TAXES, SPECIAL CIRCLE-I, ERNAKULAM-682 025.**
- 3. M/S. R.G. ELECTRONICS, NANDANAM, K.S.NAGAR,
NEAR RAILWAY STATION, KOTTARAKKARA-691 506.**

R1 & R2 BY SR GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.14729/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE STOCK TRANSFER TAX INVOICE NO.226 DATED 06/05/2015
ISSUED FROM PUNE TO THE PETITIONER ALONG WITH FORM 8F
DECLARATION**
- P2 COPY OF THE STOCK TRANSFER TAX INVOICE NO.231 DATED 06/05/15
ISSUED FROM PUNE TO THE PETITIONER ALONG WITH FORM 8F
DECLARATION**
- P3 COPY OF THE TAX INVOICE 25502548 DATED 11/05/15 ISSUED BY PETITIONER
TO 3RD RESPONDENT.**
- P4 COPY OF THE INVOICE 25502551 DATED 11/05/15 ISSUED BY PETITIONER TO
3RD RESPONDENT.**
- P5 COPY OF THE MOVE ORDER PICK SLIP REPORT DATED 11/05/15 PREPARED
BY PETITIONER FROM ITS WAREHOUSE AT ERNAKULAM**
- P6 COPY OF THE FORM-17A NOTICE DATED 13/5/15 ISSUED U/S 47(2) OF THE
KVAT ACT BY 1ST RESPONDENT TO THE PETITIONER.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.14729 of 2015

Dated this the 19th day of May, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P6 notice issued to him, detaining a consignment of High Mast Lights and its accessories, 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 appearing for the petitioner and also the learned Government Pleader appearing 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.P6 detention notice, it is seen that the objection of the respondents is that, the transportation of the goods was not accompanied by a valid invoice as prescribed under the KVAT Act. It is the stand of the respondents that while the transportation of the goods was accompanied by a stock transfer invoice from Pune to Ernakulam, there was no document to support the transportation in connection with the subsequent transaction between the petitioner and R.G. Electronics, the 3rd respondent in the writ petition. It is under these circumstances that the respondents

suspected an evasion of tax. Counsel for the petitioner would refer to Ext.P4 sale invoice that was raised by the petitioner on the 3rd respondent, to contend that the non accompaniment of the goods with Ext.P4 sale invoice was a mistake and while two invoices were simultaneously raised to cover the transaction between the petitioner and R.G.Electronics. The sale invoice accompanied only one consignment and the other consignment was transported without the necessary sale invoice. According to the petitioner this is only an inadvertent mistake for which the consignment need not be detained.

(ii) Taking note of the fact that the petitioner is a registered dealer within the State, I direct the 1st respondent to release the goods and the vehicle subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P6 notice, before the 1st respondent.

(iii) The 1st 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, untrammelled by the observations in this judgment.

(v) 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