

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WP(C).No. 15774 of 2015 (V)

PETITIONER(S):

1. GANESHMAL JAIN, AGED 72,
S/O. SESHMAL JAIN, PARTNER,
SHANKESHWAR PACKAGINGS,
SHED NO C, SUPREME INDUSTRIAL ESTATE,
DAMAN - 396210
2. GHESWARCHAND JAIN, AGED 50,
S/O. GANESHMAL JAIN, PROPRIETOR,
NAKODA POLY PLAST, SHED NO. B,
SUPREME POLY PLAST, DAMAN - 696210.

BY ADV. SRI.S.MURALI

RESPONDENT(S):

1. THE STATE OF KERALA,
REPRESENTED BY SECRETARY, TAXES,
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM - 695 001.
2. SPECIAL TAX INSPECTOR,
COMMERCIAL TAX CHECKPOST, WALAYAR,
PALAKKAD DISTRICT - 678 001.
3. MILTON ENTERPRISES, MUSLIM STREET,
OPP. ARISTO LODGE, ERNAKULAM - 682 031,
REPRESENTED BY ITS PROPRIETOR C.K SUNNY.
4. ASSISTANT SALES TAX OFFICER,
DAMANWARD, DAMAN - 396210.
5. SHAH SESHGAL CHATARBHAND, SVP ROAD,
OPP NEW BAZAR, VEGETABLE MARKET, MUMBAI - 400003.

R1, R2 & R4 BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: TRUE PHOTOCOPY OF INVOICE NO.000003 DATED 29.4.2015 ISSUED BY SHANKESHWAR PACKAGINGS (1ST PETITIONER) TO 3RD RESPONDENT.
- EXT.P2: TRUE PHOTOCOPY OF INVOICE NO.000009 DATED 29.4.2015 ISSUED BY NAKODA POLY PLAST(2ND PETITIONER) TO 3RD RESPONDENT.
- EXT.P3: TRUE PHOTOCOPY OF CERTIFICATE REGISTRATION ISSUED BY ASST. SALES TAX OFFICER, DAMAN DATED 24.12.2003 TO 1ST PETITIONER.
- EXT.P4: TRUE PHOTOCOPY OF CERTIFICATE OF REGISTRATION ISSUED BY ASST. SALES TAX OFFICER, DAMAN DATED 16.12.2008 TO 2ND PETITIONER.
- EXT.P5: TRUE PHOTOCOPY OF THE NOTICE ISSUED U/S 47(2) OF KVAT ACT DATED 5.5.2015 TO 3RD RESPONDENT.
- EXT.P6: TRUE TRUE PHOTOCOPY OF OBJECTION/ REPLY ISSUED BY 3RD RESPONDENT TO 2ND RESPONDENT DATED 7.5.2015 TO EXHIBIT P5 NOTICE.
- EXT.P7: TRUE TRUE PHOTOCOPY OF OBJECTION/ REPLY ISSUED TO 2ND RESPONDENT TO EXHIBIT P5 NOTICE BY PETITIONERS DATED 15.5.2015.
- EXT.P8: TRUE PHOTOCOPY OF INVOICE NO.00002 DATED 29.4.2015 ISSUED BY 1ST PETITIONER TO 5TH RESPONDENT FOR A VALUE OF RS 6,31,100/-

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.15774/2015**  
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Dated this the 29th Day of May, 2015

J U D G M E N T

The petitioners goods have been detained by Ext.P5. The goods are plastic carry bags. Th petitioners have been asked to furnish security for a sum of Rs.11,85,865/-. They challenge detention notice.

2. The case of the petitioners is that the goods detained include the goods which were actually intended to be sent to M/s.Shah Seshgal, Chatarbhand, SVP Road, Opp.New Bazar, Vegetable Market, Mumbai under invoice No.00002 dated 29/04/2015 and that it was sent to M/s.Milton Enterprises, Ernakulam by mistake. Therefore, the petitioners request before this Court is for a direction to the respondents to withdraw the detention notices and permit them to take back the goods detained. The petitioners also question the

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valuation of the goods made by the authorities. The petitioners' case is that valuation of the goods will be less than Rs.7 lakhs.

3. In fact, whether the goods have been mistakenly sent to Kerala or not have to be decided by the Authority. As regards to the objection regarding valuation, the Authority has taken note of the M.R.P value of the concerned goods. The petitioners are not registered dealers in Kerala. Considering the facts and circumstances, I am of the view that the goods detained can be released to the petitioners on deposit of 30% of the demand and also on furnishing two sureties from Kerala. The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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