

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. 16013 of 2015 (B)

PETITIONER(S):

**M/S. JAINA MARKETING & ASSOCIATES,
40/365 A, THUNDIYIL HOUSE, VATTEKUNNAM,
MATTER P.O., EDAPPALLY NORTH, COCHIN - 682 021,
ERNAKULAM DISTRICT,
REPRESENTED BY ITS KOCHI BRANCH MANAGER,
SRI.V.V.NARAYANAN.**

BY ADV. SRI.TOMSON T. EMMANUEL

RESPONDENT(S):

- 1. INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES SQUAD NO.II,
MATTANCHERY AT KARUKUTTY - 683 102.**
- 2. COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, 3RD CIRCLE, ERNAKULAM,
COCHIN 0 682 018.**

BY GOVERNMENT 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:**

msv/

WP(C).No. 16013 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF REGISTRATION CERTIFICATE DTD.5.5.2007 ISSUED TO PETITIONER UNDER KAAT AND CST ACTS, BY 2ND RESPONDENT.
- EXT.P2: TRUE COPY OF MATERIAL TRANSFER NOTE (STOCK TRANSFER INVOICE) NO.DL-000779 DTD.14.5.2015 RAISED BY NEW DELHI HEAD OFFICE ON ITS COCHIN BRANCH.
- EXT.P3: TRUE COPY OF LORRY RECEIPT NO.J620037716 DTD.14.5.2015 FOR DOOR DELIVERY OF MOBILE PHONES FROM DELHI TO COCHIN, ISSUED BY TRANSPORTER.
- EXT.P4: TRUE COPY OF ONLINE DECLARATION DTD.14.5.2015, GENERATED AT 7.59 PM BY NEW DELHI OFFICE OF THE PETITIONER FOR TRANSPORT OF GOODS, ON THE BASIS OF EXTP2 AND P3.
- EXT.P5: TRUE COPY OF NOTICE NO.56/15-16 DTD.18.5.2015 ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT, THROUGH TRANSPORTING AGENT IN COCHIN, DEMANDING SECURITY DEPOSIT U/S.47(2) OF KVAT ACT, FOR DELAY IN TRANSPORT, BASED ON THE EXPECTED DATE OF ARRIVAL IN EXT.P4.
- EXT.P6: TRUE COPY OF LETTER DTD.27.5.2015, SUBMITTED BEFORE 1ST RESPONDENT BY TRANSPORTER, CLARIFYING THE UNLOADING OF GOODS IN THEIR PARCEL OFFICE FOR SORTING THE GOODS FOR ARRANGING DELIVERY FROM THAT OFFICE.
- EXT.P6(A): TRUE COPY OF RECEIPT NO.ARR/15-16/7787 DTD.17.5.2015, ISSUED BY TRANSPORTING AGENT IN COCHIN FROM DOMESTIC CARGO SECTION OF COCHIN INTERNATIONAL AIR PORT, TOWARDS PROOF OF ARRIVAL OF GOODS, PRODUCED BY TRANSPORTER BEFORE 1ST RESPONDENT, ALONG WITH EXT.P6.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.16013 of 2015

Dated this the 29th day of May, 2015

J U D G M E N T

The petitioner has approached this Court challenging the detention of his goods as per Ext.P5. As per above notice, the petitioners consignment, mobile phones, brought from New Delhi was detained and he has been directed to furnish security deposit of ₹2,26,000/-.

2. The learned counsel for the petitioner submits that the consignment was brought from Delhi by air cargo and due to non availability of cargo space, the transporter company moved the goods to their godown at 'Akaparambu' for arranging delivery to the petitioner.

3. Heard the learned counsel for the petitioner as well as the learned Government Pleader for the respondents.

4. In the light of the explanation given by the air transporter Mudita Express Cargo Pvt. Ltd. in Ext.P6, I am of the view that, there is no need for detaining the goods. The same shall, therefore, be released to the petitioner on execution of a simple bond without sureties.

5. If any fraudulent activity is detected, it is made clear that the authority is also at liberty to proceed against the transporter Mudita Express Cargo Pvt. Ltd. who issued Ext.P6.

W.P.(C) No.16013 of 2015

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

AV