IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 16356 of 2015 (T)

PETITIONERS :

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1. SEQUEL LOGISTICS
   BHUVANESWARI ROAD, KOCHI-682019
   REPRESENTED BY ITS DEPUTY MANAGER
   JAYAKUMAR J. BOSE.

2. MUTHOOT PRECIOUS METAL CORPORATION
   KURIAN TOWERS, KOCHI-682018
   REPRESENTED BY ITS CHIEF MANAGER, PAUL ANDREW P.X.

   BY ADV. SMT.S.K.DEVI

RESPONDENTS :

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1. THE INTELLIGENCE INSPECTOR
   SQUAD NO.VI
   O/O THE INSPECTING ASSISTANT COMMISSIONER
   COMMERCIAL TAXES, KOZHIKODE.

2. VNM JEWEL CRAFTS LTD.
   MANJAKKAL, BOULEVARD ROAD, MAHE 673310
   REPRESENTED BY ITS DIRECTOR KAMANA JOBANPUTRA.

3. STATE OF KERALA
   REPRESENTED BY ITS FINANCE SECRETARY, SECRETARIAT
   THIRUVANANTHAPURAM-695001.

   R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 16356 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE NOTICE NO.VE/VI/132/15-16 DATED 26.5.2015.

EXHIBIT P2: TRUE COPY OF THE CERTIFICATE ACCOMPANIED THE CONSIGNMENT FOR MUMBAI.

EXHIBIT P2A: TRUE COPY OF INVOICE NO.JMCO/104/15-16 DATED 25TH MAY 2015 ISSUED BY THE VNM JEWEL CRAFTS LTD. MAHE.

EXHIBIT P2B: TRUE COPY OF BILL ISSUED BY THE PETITIONER FOR THE SAID CONSIGNMENT.

EXHIBIT P3: TRUE COPY OF THE CERTIFICATE ACCOMPANIED THE CONSIGNMENT FOR HYDERABAD.

EXHIBIT P3A: TRUE COPY OF INVOICE NO.JMCO/103/15-16 DATED 25TH MAY 2015 ISSUED BY THE VNM JEWEL CRAFTS LTD. MAHE.

EXHIBIT P3B: TRUE COPY OF THE BILL ISSUED BY THE PETITIONER FOR THE CONSIGNMENT TO HYDERABAD.

EXHIBIT P4: TRUE COPY OF THE AGREEMENT MADE ON IST APRIL 2014.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A TO JUDGE

AV

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.16356 of 2015

Dated this the 4th day of June, 2015

J U D G M E N T

The petitioners have filed this writ petition aggrieved by Ext.P1 detention notice. As per the notice, gold ornaments have been intercepted by the Excise Department and handed over the same to the Sales Tax Department at Azhiyoor check post. The goods were transported from Mahe to Bombay, Hosur and Hyderabad. The petitioners' case is that, they can obtain Transit Pass either through online or from the check post. Since the vehicle was intercepted before reaching the check post, they were unable to obtain Transit Pass. It is further submitted that, for that reason alone, the goods ought not have been detained.

2. The learned Government Pleader opposes the prayer of the petitioners and submits that, the petitioners used to take Transit Pass through online and now feign ignorance about obtaining online Transit Pass. It is also submitted that, the petitioners have not raised any objection on the notice before the authorities.

3. The goods were transported from Mahi (Pondicherry). The first available check post is Azhiyoor check post. In fact, before reaching the said check post, the vehicle was intercepted by the Excise Department. The petitioners, therefore, submit that the denial of opportunity to obtain a Transit Pass from the check post cannot be taken as a ground against them for alleging suspected

evasion of tax.

4. Considering the facts and circumstances of the case, I am of the view that, the petitioners have made a *prima facie* case. In such circumstances, there shall be a direction to release the goods and vehicle to the petitioners, on obtaining Transit Pass, without any other conditions.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

AV