**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937**

**WP(C).No. 22820 of 2015 (B)**

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**PETITIONER :**

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**M/S. IRIS COMPUTERS LTD.,**
**SHOBA VIHAR, TC 26/1457, KUNNUKUZHY,**
**THIRUVANANTHAPURAM,**
**REPRESENTED BY ITS AUTHORISED SIGNATORY SMT. KALA S. NAIR.**

**BY ADV. SRI.A.KUMAR**

**RESPONDENT :**

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**INTELLIGENCE INSPECTOR,**
**SQUAD NO.VII, COMMERICAL TAX CHECK POST,**
**THIRUVANANTHAPURAM AT NEYATTINKARA-695 121**

**BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**sts**

**WP(C).NO.22820/2015**

## APPENDIX

**PETITIONER'S EXHIBITS:**

**P1 COPY OF THE CERTIFICATE OF REGISTRATION**

**P2 COPY OF THE SALE INVOICE DATED 16/7/2015**

**P3 COPY OF THE SAID NOTICE DATED 21/07/2015**

**P4 COPY OF THE SPECIMEN SALES BILL OF THE TAXABLE GOODS SOLD DATED 23/7/2015**

**P5 COPY OF THE MONTHLY RETURN FOR JUNE 2015**

**P6 COPY OF THE REPLY DATED 24/07/2015**

**P7 COPY OF THE JUDGMENT IN WP(C).NO.21697 OF 2015 DATED 17/7/2015.**

**RESPONDENT'S EXHIBITS: NIL**

**/TRUE COPY/**

**P.A.TO JUDGE**

**sts**

**A.MUHAMED MUSTAQUE, J.**

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W.P.(C) No.22820 of 2015

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Dated this the 29th day of July, 2015

## JUDGMENT

The petitioner have approached this Court challenging detention notice. The reason for detention is that the consignment is declared as Computer Systems and peripherals at 1000 numbers. But as per invoice, there are 500 Laptops and 500 Backpack bags.

2. On physical verification made by the courier agency, it is found that the Laptops and Backpacks are separate commodities having different MRPs. Laptops are taxable @ 5% and Backpack bags are taxable @ 14.5%. It is the case of the Authority that the petitioner is willfully misclassified.

3. On the other hand, the learned counsel for the petitioner submits that 500 Laptops and 500 Backpack bags are regular part of the Laptop commodities and the same is intended to be sold as one commodity and not separately intended to be sold. Even if there is a dispute regarding misclassification, the goods cannot be detained.

4. Learned Government Pleader made available before this Court 8F declaration, which shows that the commodity has been declared as Computer Systems and Peripheral parts as 1000 numbers and therefore, the petitioner cannot take advantage of omissions in 8F declaration.

5. Learned counsel for the petitioner points out that in the invoice submitted by the petitioner, they have already shown the details of Laptops and Backpack bags separately in quantity. Therefore, there is no evasion of tax.

6. This Court is not expressing anything on merits.

Taking note of the facts and circumstances, this Court is of the view that the goods shall be released to the petitioner on depositing a sum of Rs.50,000/- (Rupees fifty thousand only) and executing a simple bond for the remainder. All issues are left open.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

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