

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 25TH DAY OF AUGUST 2015/3RD BHADRA, 1937

WP(C).No. 26231 of 2015 (D)

PETITIONER(S):

**RX SOLUTIONS (KERALA), 28/89C,
MANGALATH HOUSE, PANAMPILLY NAGAR,
COCHIN-682036, REPRESENTED BY ITS
AUTHORISED SIGNATORY AND MANAGER MR.SANDEEP.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD**

RESPONDENT(S):

**INTELLIGENCE INSPECTOR, SQUAD NO.III,
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM-682016.**

BY GOVERNMENT PLEADER SMT.K.T.LILLY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 26231 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE VAT CERTIFICATE OF REGISTRATION**
- EXHIBIT P2. COPY OF THE STOCK TRANSFER INVOICE DTD.18/8/15**
- EXHIBIT P3. COPY OF FORM 8A DECLARATION DTD.19/8/15**
- EXHIBIT P4. COPY OF THE S.47(2) NOTICE DTD.20/8/15**
- EXHIBIT P5. COPY OF THE COMMUNICATION ISSUED BY THE COMMISSIONER OF
COMMERCIAL TAXES TO DEPUTY COMMISSIONERS DATED 23/7/15**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.26231 of 2015

.....
Dated this the 25th day of August, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P4 notice issued to him detaining a consignment of laptop batteries that was being transported from Bangalore to Kerala, at his instance. In the writ petition, the petitioner is aggrieved by the insistence of the respondent 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 for the petitioner and also the learned Government Pleader 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.P4 detention notice, it is seen that the objection of respondent is essentially with regard to the identity of the item transported. It is the stand of respondents that, while the goods have been described as laptop batteries, the Form 8FA generated by the petitioner indicated that the commodity that was being transported was laptop accessories - batteries. It is also the stand of the respondents

that multiple transactions of the same commodity was suspected since the date of clearance was declared as 21.08.2015 but the consignment was cleared by the dealer on 20.08.2015.

(ii) On a consideration of the matter, I find that the transportation of the goods was duly accompanied by the relevant documents that are stipulated in the KVAT Act and Rules. Apart from that, the petitioner is a registered dealer in the State. Taking into account the said facts, I direct the respondent to release the goods to the petitioner on his furnishing a simple bond without surety for the security deposit amount demanded in Ext.P4 notice.

(iii) The 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.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE