

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. 26238 of 2015 (D)

PETITIONER(S):

**M/S. MICROMAX INFORMATICS LTD,
DOOR NO.6/363 K.L.P.O., THANNIPILLY TOWER,
KUTTIKATTUKARA P.O., ELOOR, COCHIN-683504,
REPRESENTED BY ITS AUTHORIZED SIGNATORY
MR.SURENDER KUMAR SHARMA.**

BY ADV. SRI.A.KUMAR

RESPONDENT(S):

**INTELLIGENCE INSPECTOR,
SQUAD NO.IV, DEPARTMENT OF COMMERCIAL TAXES,
MATTANCHERY AT MINI CIVIL STATION,
PERUMBAVOOR-686686.**

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. 26238 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE REGISTRATION CERTIFICATE

EXHIBIT P2. COPY OF THE STOCK TRANSFER NOTE DATED 9/8/15

EXHIBIT P3. COPY OF THE DELIVERY NOTE DATED 9/8/15

EXHIBIT P4. COPY OF THE FORM 8FA DECLARATON

**EXHIBIT P5. COPY OF THE SAID NOTICE ISSUED UNDER SEC.47(2) OF THE KVAT
ACT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.26238 of 2015

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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.P5 notice issued to him detaining a consignment of mobile telephones and accessories that was being transported from Nedumbassery airport to Kochi, 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 respondent.

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.P5 detention notice, it is seen that the objection of the respondent is essentially that the documents accompanying the consignment were dated 09.08.2015 and the goods were actually cleared on 10.08.2015 and the detention was two days thereafter. The

respondent therefore suspects multiple transportation of goods using the same documents. I note from Ext.P5 notice however that the respondent merely suspects that there was a multiple transportation of goods and there is no material produced to show that there was an instance of such transportation in the past.

(ii) The petitioner is a registered dealer in the State. It is also not in dispute that the consignment was accompanied by the documents under the KVAT Act. Under the circumstances, I direct the respondent to release the goods to the petitioner on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P5.

(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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE