

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

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937**

**WP(C).No. 27190 of 2015 (W)**  
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**PETITIONER(S) :**  
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**M/S.PHILIPS INDIA LIMITED,  
SURVEY NO.820/17, KUTHAMBAKKAM VILLAGE,  
NEAR CHETTIPEDU JUNCTION, CHENNAI- 602 105,  
REPRESENTED BY MR.KUMAR VENKITACHALAM,  
AUTHORISED SIGNATORY.**

**BY ADVS.SRI.JOSEPH JERARD SAMSON RODRIGUES  
SRI.ROVIN RODRIGUES**

**RESPONDENT(S) :**  
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**THE COMMERCIAL TAX INSPECTOR,  
COMMERCIAL TAX CHECK POST, WALAYAR- 678 625,  
PALAKKAD DISTRICT.**

**BY GOVERNMENT PLEADER SRI.LIJU.V.STEPHEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 09-09-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

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- EXHIBIT P1: TRUE PHOTOCOPY OF THE PURCHASE ORDER  
NO.AIMS/0105/2015-16 DATED 22.05.2015, ISSUED BY M/S.AMALA  
CANCER HOSPITAL & RESEARCH, THRISSUR.
- EXHIBIT P2: TRUE PHOTOCOPY OF THE IMPORT INVOICE NO.931341893  
DATED 21.07.2015, ISSUED BY M/S.PHILIPS, THE NETHERLANDS.
- EXHIBIT P3: TRUE PHOTOCOPY OF THE SEA PORT AIR WAYBILL  
NO.7787797017 DATED 04.08.2015, ISSUED BY UPS ASIA GROUP  
PTE.LTD., SHANGHAI, CHINA.
- EXHIBIT P4: TRUE PHOTOCOPY OF THE BILL OF ENTRY NO.2332908  
DATED 22.08.2015 OF PHILIPS INDIA LIMITED, CHENNAI.
- EXHIBIT P5: TRUE PHOTOCOPY OF THE INVOICE NO.950285619  
DATED 01.09.2015 FOR RS.1,03,33,000/- OF PHILIPS INDIA LIMITED,  
CHENNAI.
- EXHIBIT P6: TRUE PHOTOCOPY OF THE CERTIFICATE OF OWNERSHIP IN  
FORM NO.16 BEARING NO.3090423416/2015 DATED 03.09.2015 OF  
M/S.AMALA CANCER HOSPITAL & RESEARCH, THRISSUR.
- EXHIBIT P7: TRUE PHOTOCOPY OF THE E-DECLARATION IN FORM NO.8F  
BEARING NO.320000/2015-16/274395 DATED 03.09.2015, ISSUED BY  
M/S.AMALA CANCER HOSPITAL & RESEARCH, THRISSUR.
- EXHIBIT P8: TRUE PHOTOCOPY OF THE NOTICE NO.OR 493/4/15-16  
DATED 04.09.2015, ISSUED BY THE RESPONDENT COMMERCIAL  
TAX INSPECTOR.
- EXHIBIT P9: TRUE PHOTOCOPY OF THE OBJECTION LETTER DATED 04.09.2015  
SUBMITTED THROUGH E-MAIL BEFORE THE RESPONDENT.

RESPONDENT(S)' EXHIBITS :

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NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C).NO.27190 OF 2015 (W)**  
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**Dated this the 9<sup>th</sup> day of September, 2015**

**J U D G M E N T**

The petitioner is aggrieved by Ext.P8 notice issued to him, detaining a consignment of medical equipments, that was being transported, at the instance of the petitioner for M/s.Amala Cancer Hospital and Research, Thrissur. 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 appearing for the petitioner and also the learned Government Pleader appearing 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.P8 notice, it is seen that, although the goods in question were transported under

the cover of valid invoices and Form 16 certificate issued by the consignee declaring the commodity to be for the own use of the consignee, the respondent suspected an evasion of tax solely for the reason that the Form 16 submitted along with the consignment was not authenticated properly. Counsel for the petitioner would place reliance on Ext.P6 certificate of ownership that was submitted in the KVATIS system prior to the transportation of the goods, a perusal of which would reveal that the certificate of ownership issued by M/s.Amala Cancer Hospital and Research bore the signature and seal of the Institution and also contained a declaration that the goods were for the own use of the Hospital. Taking note of the said documents, as also Ext.P7 Form 8F declaration that was available in the KVATIS system, I direct the respondent to release the goods and the vehicle subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P8 notice, before the respondent.

(ii) 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, untrammelled by the observations in this judgment.

(iii) The petitioner shall produce a copy of this

judgment and a copy of the writ petition before the respondent.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

prp