

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

WP(C) .No. 28637 of 2015 (D)

PETITIONER(S) :

M/S. PRINCE GOLD AND DIAMONDS INDIA PRIVATE LIMITED
TC 37/856-2, RAJADHANI BUILDING EAST FORT
TRIVANDRUM-695023

REPRESENTED BY ITS MANAGING DIRECTOR
PRINCESON JOSE

BY ADVS.SRI.K.J.ABRAHAM

SRI.NIKHIL JOHN

RESPONDENT(S) :

THE COMMERCIAL TAX INSPECTOR
DEPARMENT OF COMMERCIAL TAXES
COMMERCIAL TAX CHECK POST AMARAVILA 695 122

R BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
22-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 28637 of 2015 (D)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE REGISTRATION CERTIFICATE IN FORM NO 1D DATED 02.06.2015

EXT.P2: TRUE COPY OF THE INVOICE NO.962 DATED 18.09.2015

EXT.P3: TRUE COPY OF THE FORM 16 DELIVERY NOTE DATED 18.09.,2015

EXT.P4: TRUE COPY OF THE TRANSACTION SLIP DATED 18.09.2015

EXT.P5: TRUE COPY OF THE FORM NO.17A NOTICE NO.OR.643/15-16 DATED 19.09.2015

EXT.P6: TRUE COPY OF THE CIRCULAR NO.3/2015 DATED 14.01.2015

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.28637 of 2015

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Dated this the 22nd day of September, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P5 notice issued to him detaining a consignment of electrical fittings that was being transported at the instance of the petitioner. 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, it is seen that the objection of the respondent is essentially that the petitioner had declared the goods as for own use but only a manual Form 16 was seen accompanying the transportation and the online Form 16 was not filed

by the petitioner. I find, however, that the transportation in question was an interstate sale in favour of the petitioner and the transportation was duly accompanied by a copy of the invoice that evidenced transfer of ownership of the goods in favour of the petitioner.

(ii) It is also submitted that the petitioner is a registered dealer in the State. Taking note of the said submissions, I direct the respondent to release the goods and the vehicle 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

