IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 28902 of 2015 (K)

PETITIONER:

M/S.REDINGTON INDIA LTD.,
VELLAKKAL BUILDING, DOOR NO.XXIX/475 A,
UNICHIRA, ERNAKULAM, REPRESENTED BY
ITS AUTHORIZED SIGNATORY, MR.RAJENDRAN.

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

RESPONDENT:

THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
WALAYAR - 678 624.

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 28902 of 2015 (K)

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : **A TRUE COPY OF INVOICE DATED 13.8.2015.**

EXT. P2 : **TRUE COPY OF THE TRANSACTION SLIP DATED 13.8.2015.**

EXT. P3 : **TRUE COPY OF THE NOTICE DATED 21.8.2015.**

EXT. P4 : **TRUE COPY OF THE REPLY DATED 11.9.2015.**

EXT. P5 : **A TRUE COPY OF THE STOCK LEDGER FOR THE PERIOD 10.4.2015 TO 22.9.2015.**

EXT. P6 : **TRUE COPY OF SALE INVOICE DATED 30.5.2015.**

EXT. P7 : **TRUE COPY OF THE ANNUAL RETURN FOR THE PERIOD 1.4.2014 TO 31.3.2015.**

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.28902 of 2015

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Dated this the 28th day of September, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P3 notice issued to him detaining a consignment of UPS 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.P3, it is seen that, the objection of the respondent is essentially with regard to the rate of tax payable in respect of the consignment. While the goods were declared as computer peripherals taxable at the rate of 5%, the accompanying invoice showed the goods as UPS

which according to the respondents is taxable at the rate of 14.5%. Counsel for the petitioner would submit that the goods when sold by the petitioner within the State are sold by collecting tax at 14.5%.

(ii) It is further submitted that, the petitioner will pay the entire security deposit amount demanded in Ext.P3 as advance tax as a condition for getting release of the goods. Taking note of the said submission of counsel for the petitioner, I direct the respondent to release the goods and the vehicle to the petitioner on the petitioner paying the security deposit amount demanded in Ext.P3 by way of advance tax and producing proof of payment of the same before the respondent.

(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/