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. 29158 of 2015 (T)

PETITIONER(S):

M/S.GIRINDRA HOSPITALITY PVT. LTD.,
KURUPPAM ROAD, THRISSUR,
REPRESENTED BY ITS GENERAL MANAGER,
RAMANUNNI C.NAIR.

BY ADVS.SRI.HARISANKAR V. MENON,
SMT.MEERA V.MENON.

RESPONDENT(S):

THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
VELANTHAVALAM-678 557.

BY GOVT. PLEADER SMT.K.T. LILLY.

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

rs.

WP(C).No. 29158 of 2015 (T)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	COPY OF THE BUILDING PERMIT ISSUED BY THE THRISSUR CORPORATION DATED 01/01/2010.
EXT.P1A	COPY OF THE CERTIFICATE ISSUED BY THE VILLAGE OFFICER, THRISSUR DATED 16/09/2015.
EXT.P2	COPY OF THE INVOICE NO.2465 ISSUED BY THE SUPPLIER IN DELHI DATED 01/07/2015.
EXT.P2A	COPY OF THE CERTIFICATE OF OWNERSHIP GENERATED BY ONLINE DATED 16/09/2015.
EXT.P3	COPY OF THE NOTICE IN FORM NO.17A ISSUED BY THE RESPONDENT DATED 23/09/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No.29158 of 2015

Dated this the 28th day of September, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P3 notice issued to him detaining a consignment of SPA Equipments 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 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 as also the submissions made across the bar, I dispose the writ petition with the following directions:

> (i) On a perusal of Ext.P3 notice, it is seen that the objection of the respondent is essentially that the petitioner who had not obtained a registration under the CST Act had received the goods under transportation at concessional rate of tax under the

CST Act. It was therefore suspected that there was an attempt at evasion of tax by the petitioner. Counsel for the petitioner would submit that the transportation of goods was duly accompanied by an invoice as also ownership certificate in Form 16 indicating that the goods were required for own use of the petitioner for rendering hospitality services. It is further submitted that the apprehension of the respondent that the petitioner was not entitled to obtain goods at concessional rate of tax under the CST Act is justified since the petitioner has not obtained the registration under the CST Act as yet. Taking note of the said submission of counsel for the petitioner I dispose the writ petition with the following directions:

(i) The respondent shall release the goods and vehicle covered by Ext.P3 detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the Ext.P3 notice, before the respondent.

(ii) The petitioner shall also furnish an undertaking before the respondent to the effect that the petitioner will take steps to ensure that the differential tax in respect of the transaction is paid before the Assessing Authority of the supplier at Delhi, and proof of the said payment will be made available before the respondent within a period of one month from today.

(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.

(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

rsr

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