

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. 29213 of 2015 (B)

PETITIONER:

**PANASONIC INDIA PRIVATE LIMITED,
DOOR NO.2022, C, D, G & H, 2ND FLOOR,
JOSEPH AND VALENTINES BUILDING,
SUBHASH CHANDRA BOSE ROAD,
JAWAHAR NAGAR, KADAVANTHRA,
COCHIN - 682 020, REPRESENTED BY
K.R.ARUN, BRANCH COMMERCIAL HEAD,
S/O.T.K.RADHAKRISHNAN NAIR, AGED 30 YEARS.**

**BY ADVS.SMT.K.S.SUMITHA
SMT.M.M.JASMIN**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
TAXES, SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECKPOST,
KUNHIPALLY.P.O, CHOMBALA,
KOZHIKODE DISTRICT - 673 001.**

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. 29213 of 2015 (B)

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT
DATED 20.9.2015.

EXT. P2 : TRUE COPY OF THE REPLY GIVEN BY THE PETITIONER TO EXHIBIT P1
NOTICE DATED 22.9.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No.29213 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.P1 notice issued to him detaining a consignment of Washing Machines that was being transported at the instance of the petitioner. In the writ petition, the petitioner is aggrieved by the insistence of the 2nd 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 2nd 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.P1 notice, it is seen that the objection of the 2nd respondent is essentially with regard to the documents that accompanied the transportation of the goods, inasmuch as they indicated that the goods have not been declared at any of the border check posts and no check post seal was affixed

in the documents. The 2nd respondent therefore suspected an attempt at evasion of tax. Counsel for the petitioner would submit that the driver of the vehicle was a new person and he was not aware of the location of check posts. It is also submitted that the petitioner is a registered dealer in the State. Taking note of the submission of counsel for the petitioner, but keeping in mind the fact that the goods were not declared before any of the check posts, I direct the 2nd respondent to release the goods and the vehicle covered by Ext.P1 detention notice, to the petitioner, on his paying 30% of the security deposit demanded in Ext.P1 notice and furnishing a simple bond without sureties for the balance amount demanded therein, before the 2nd respondent.

(ii) The 2nd 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 2nd respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

W.P.(C). No.29213 of 2015

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