

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. 29343 of 2015 (P)

PETITIONER :

**SRI SUGUNA MACHINE WORKS PVT. LTD.,
KARIMPATTA CROSS ROAD, PALLIMUKKU
ERNAKULAM, KOCHI – 682 016
(REPRESENTED BY THE MANAGER SRI. SKANTHARAJAN P.N.)**

**BY ADVS.SRI.K.N.SREEKUMARAN
SRI.P.D.UNNIKANNAN NAIR
SMT. V.P. SEENA DEVI**

RESPONDENT :

**INTELLIGENCE INSPECTOR
COMMERCIAL TAXES, SQUAD NO. VIII
ERNAKULAM – 682 015.**

BY GOVT. 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:**

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : TRUE COPIES OF THE INVOICE NO. 952 DATED 30-1-2015, DELIVERY NOTE NO. 320718/DN/2014 DATED 30-1-2015, TRANSACTION SLIP DATED 30-1-2015 & GOODS CONSIGNMENT NOTE.
- EXT.P2 TRUE COPIES OF THE INVOICE NO. 901 DATED 20-4-2015, FORWARDING LETTER DATED 21-4-2015 & GOODS CONSIGNMENT NOTE.
- EXT.P3 TRUE COPY OF THE INVOICE NO. 59 DATED 21-8-2015 ISSUED BY M/S. SRI SUGUNA MACHINE WORKS PVT. LTD., KOTHARIYA, RAJKOT TO THE PETITIONER.
- EXT.P4 COPY OF THE TRANSACTION SLIP NO. 320718/PA01/16172/2015 DATED 24-8-2015 GENERATED ON LINE WITH FORM 8F.
- EXT.P5 COPY OF THE NOTICE NO. OR 495/15-16 DATED 18.9.2015 ISSUED BY THE RESPONDENT.
- EXT.P6 COPY OF THE REPLY FILED ON 25.9.2015 FILED BY THE PETITIONER BEFORE THE RESPONDENT.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.29343 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.P5 notice issued to him detaining a consignment of SS body pump 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 value shown in the invoice that accompanied the transportation of the goods was too low compared to the MRP value of the goods. It is also stated that, there was no Form 8F declaration that

accompanied the consignment. Counsel for the petitioner would submit that, the goods in question were returned after repair by the original manufacturer of the goods. The petitioner had obtained the goods from the manufacturer and returned the same for repairs to the original manufacturer during the warranty period and the transportation was of the goods after repair. As regards the 8F declaration, it is submitted that, the transaction slip was generated in the KVATIS software on 24.08.2015 itself and the non-filing of the declaration was only a technical lapse as the same was available in the KVATIS system.

(ii) It is also submitted that the petitioner is a registered dealer in the State. 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 furnishing a simple bond without surety for the security deposit amount demanded in Ext.P5 detention notice.

(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

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