IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C).No. 29402 of 2015 (A)
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PETITIONER(S) :

CHAITHANYA FRAGRANCES,
VII/504, THEKKEDATH BUILDING, THIRUVAMKULAM,
KOCHI, PIN- 682 305,
REPRESENTED BY ITS MANAGING PARTNER, K.RADHAKRISHNAN.

BY ADV. SRI.R.MURALIDHARAN (AROOR)

RESPONDENT(S) :
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1. **THE COMMERCIAL TAX OFFICER,**
   KVAT 2ND CIRCLE, DEPARTMENT OF COMMERCIAL TAXES,
   TRIPUNITHURA, ERNAKULAM DISTRICT, PIN- 682 101.

2. **THE COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAX CHECK POST, AMARAVILA,
   THIRUVANANTHAPURAM DISTRICT, PIN- 678 558.

BY GOVERNMENT PLEADER SRI.LIJU.V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 29402 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: **TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED UNDER KVAT ACT, DATED 26.09.2008.**

EXHIBIT P2: **TRUE COPY OF THE INVOICE RAISED AND ATTACHED WITH THE CONSIGNMENT, DATED 26.08.2015.**

EXHIBIT P3: **A TRUE COPY OF THE RETURN E-FILED FOR THE MONTH OF AUGUST 2015, ALONG WITH STATEMENT OF SALES & PURCHASES, DATED 23.09.2015.**

EXHIBIT P4: **TRUE COPY OF THE CORRECT PRINTOUT OF THE INVOICE NO.133, DATED 26.08.2015.**

EXHIBIT P5: **TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT UNDER SECTION 47(2) DATED 01.09.2015.**

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 29402 of 2015
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Dated this the 29th day of September, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P5 notice issued to him detaining a consignment of perfumery oils 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.P5 notice, it is seen that the objection of the respondent is essentially with regard to the fact that although there was an invoice that accompanied the transaction of the goods, the invoice showed that no tax was paid or collected by the petitioner, on the goods sold by him. Counsel for the petitioner would submit that this was an

inadvertent mistake that occurred while generating the invoice and the petitioner has actually paid the tax by incorporating the said transaction in the return that was filed for the month of August, 2015. He produces Ext.P3 to substantiate the said contention. It is further submitted that the petitioner is a registered dealer in the State. Taking note of the said submission, and finding that the transportation of the goods was otherwise in order, I direct the 2nd respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the notice, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das