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. 29547 of 2015 (P)

PETITIONER(S) :

**M/S. PROFESSIONAL COPIER SERVICES INDIA LIMITED.,
VALIYA VEETTIL, IV/53A, MAROTTICHUVADU-IV, KALAMASSERY,
ERNAKULAM- 682 024, REPRESENTED BY ITS BRANCH MANAGER,
SRI.C.K.VIJAYAN.**

**BY ADVS.SRI.K.J.ABRAHAM
SRI.NIKHIL JOHN**

RESPONDENT(S) :

1. **THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, VELANTHAVALAM AT KOZHIPARA,
PALAKKAD- 678 557.**

2. **INSPECTING ASSISTANT COMMISSIONER,
CHITTOOR, PALAKKAD- 678 101.**

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. 29547 of 2015 (P)
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APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE REGISTRATION CERTIFICATE IN FORM NO.IA DATED 17.07.2014.

EXHIBIT P2: TRUE COPY OF THE INVOICE NO.30 DATED 25.09.2015.

EXHIBIT P2(A): TRUE COPY OF THE INVOICE NO.31 DATED 25.09.2015.

EXHIBIT P3: TRUE COPY OF THE FORM NO.8F E-DECLARATION TOKEN NO.32071215262/2015-16/407946 DATED 25.09.2015.

EXHIBIT P4: TRUE COPY OF THE OR NOTICE NO.365/15-16 DATED 26.09.2015.

EXHIBIT P5: TRUE COPY OF THE ORDER IN W.P.(C).NO.14680 OF 2015 DATED 19.05.2015.

EXHIBIT P6: TRUE COPY OF THE REQUEST LETTER DATED 26.09.2015 SUBMITTED TO THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.29547 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.P4 notice issued to him detaining a consignment of digital printer, opener and consumables that was being transported from Coimbatore to Kalamassery at the instance of the petitioner. In the writ petition, the petitioner is aggrieved by the insistence of the respondents 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 respondents.

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.P4 detention notice, it is seen that the objection of the respondents is essentially with regard to the misclassification of the item for the

purposes of taxation under the KVAT Act. The respondents would contend that the item was one that attracted tax at 14.5% in the State whereas it was classified as a computer systems and peripherals that attracted only 5% tax within the State. It was therefore suspected that the dealer was misclassifying the items for the purposes of evasion of tax within the State.

(ii) I take note of the fact that the transportation, which was an interstate stock transfer, was accompanied by all the necessary documents that were prescribed under the KVAT Act and Rules. It is also not in dispute that the petitioner is a registered dealer within the State. Under such circumstances, I direct the 1st respondent to release the goods and the vehicle to the petitioner, on the petitioner executing a simple bond without surety for the security deposit amount demanded in Ext.P4 before the 1st respondent.

(iii) The 1st 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 1st respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/