

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 29759 of 2015 (T)

PETITIONER :

**M/S. SIEMENS LIMITED,
SEETHAKATHI BUSINESS, CENTRE (4TH FLOOR),
272/688, ANNA SALAI, CHENNAI-600 006,
REPRESENTED BY DAVID ALEX.K
SENIOR EXECUTIVE SALES.**

**BY ADVS.SRI.JOSE JOSEPH
SRI.AJAY V.ANAND**

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.IV, COMMERCIAL TAXES (INTELLIGENCE),
KOZHIKODE, CAMP AT COMMERCIAL TAX CHECK POST,
WALAYAR-682 015.**
- 2. NIRMALA HOSPITAL, MARIKUNNU.P.O.,
CALICUT-673 012, REPRESENTED BY DIRECTOR.**

R1 BY GOVERNMENT PLEADER SMT. K.T.LILLY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE PURCHASE ORDER PLACED BY 2ND RESPONDENT DATED 19/06/2015.**
- P2 COPY OF THE INVOICE OF FOREIGN SUPPLIER DATED 21/09/2015**
- P3 COPY OF THE BILL OF ENTRY DATED 22/09/2015**
- P4 COPY OF THE PETITIONER'S INVOICE DATED 23/09/2015**
- P5 COPY OF THE CERTIFICATE IN FORM NO.16 DATED 25/09/2015**
- P6 COPY OF THE DECLARATION IN FORM NO.8F DATED 25/09/2015**
- P7 COPY OF THE NOTICE U/S 47(2) OF THE KVAT ACT DATED 25/09/2015**
- P8 COPY OF THE JUDGMENT IN WP(C).NO.1138 OF 2012 DATED 17/01/2012**
- P9 COPY OF THE JUDGMENT IN WP(C).NO.18424 OF 2013 DATED 24/07/2013**
- P10 COPY OF THE JUDGMENT IN WP(C).NO.4511 OF 2014 DATED 17/02/2014**
- P11 COPY OF THE INTERIM ORDER IN WP(C).NO.11735 OF 2014 DATED 29/04/2014**
- P12 COPY OF THE LETTER NO.C2-13529/12/CT OF THE COMMISSIONER OF COMMERCIAL TAXES DATED 04/11/2014**
- P13 COPY OF THE JUDGMENT OF THIS COURT IN OT REV.NO.139 OF 2013 DATED 16/06/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.29759 of 2015

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Dated this the 1st day of October, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Ext.P7 notice issued to him detaining a consignment of C.T.Scanners 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 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.P7, it is seen that, the objection of the respondents is essentially that the consignment in question had not suffered any local tax or CST, and therefore, there is a possibility of evasion of tax. Counsel for the petitioner would submit that, the goods were being transported in

the course of import into the State and was covered by valid invoice issued by the supplier and also a Form-16 ownership certificate produced by the consignee that was uploaded in the KAVATIS Website.

(ii) It is also stated that the petitioner is registered dealer in the State. Taking note of the submission of counsel for the petitioner, I direct the 1st 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.P7 detention notice.

(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/

