

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. 29760 of 2015 (T)

PETITIONER(S):

**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 ADV. SRI.JOSE JOSEPH

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.II, OFFICE OF THE INTELLIGENCE OFFICER,
KOLLAM AT KOTTARAKKARA,
CAMP AT COMMERCIAL TAX CHECK POST,
ARYANKAVU-691309.**
- 2. TRAVANCORE SCANS MRI PVT.LTD.,
OOMMENS PAZHAYA ROAD, MEDICAL COLLEGE P.O,
TRIVANDRUM-11, REPRESENTED BY MANAGING 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:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF PURCHASE ORDER PLACED BY R2**
- P2: COPY OF THE ORDER CONFIRMATION**
- P3: COPY OF INVOICE OF FOREIGN SUPPLIER**
- P4: COPY OF BILL OF ENTRY**
- P5: COPY OF PETITIONER'S INVOICE**
- P6: COPY OF DECLARATION IN FORM NO.8F**
- P7: COPY OF NOTICE U/S.47(2) OF THE KVAT ACT**
- P8: COPY OF JUDGMENT IN WPC.1138/12**
- P9: COPY OF JUDGMENT IN WPC.18424/13**
- P10: COPY OF JUDGMENT IN WPC.4511/14**
- P11: COPY OF THE INTERIM ORDER IN WPC.11735/14**
- P12: COPY OF THE LETTER NO.C2-13529/12/CT OF THE COMMISSIONER OF
COMMERCIAL TAXES**
- P13: COPY OF THE JUDGMENT OF THIS COURT IN OT.REV.NO.139/13**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.29760 of 2015

.....
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 Form 16 declaration produced by the consignee could not be relied upon since the consignee was proposing to use the equipment for scanning patients and collecting fees from them, and

therefore, it was not an own use as contemplated under the statute.

(ii) It is not in dispute, however, that the petitioner is a registered dealer in the State or that the consignment was duly accompanied by a valid invoice as also a delivery note in Form JJ which is the document prescribed under the Tamilnadu Vat Act. I also note that, the objection with regard to the own use of the goods cannot be legally sustained. Under such circumstances, 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/

