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. 29836 of 2015 (D)
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PETITIONER(S):

BINOY A.B., PROPRIETOR,
M/S VAST SMART INTERNATIONAL TRADING LIMITED,
DOOR NO.XII/143, PULIKKAL BUILDING,
CIVIL LANE ROAD, VAZHAKKALA, KOZHI - 682 030.

BY ADVS.SRI.P.S.SOMAN
SMT.T.RADHAMANY

RESPONDENT(S):
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1. **THE INTELLIGENCE INSPECTOR,**
   SPECIAL SQUAD, COMMERCIAL TAXES,
   PALAKKAD.

2. **THE STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY,
   TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM, PIN - 695 001.

3. **THE COMMISSIONER OF COMMERCIAL TAXES,**
   GOVERNMENT OF KERALA,
   TAX TOWER, KARAMANA P.O.,
   THIRUVANANTHAPURAM, PIN - 695 002.

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:

msv/

WP(C).No. 29836 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1; TRUE COY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER.

EXT.P2: TRUE COPY OF THE RETURN FILED BY THE PETITIONER FOR THE MONTH OF AUGUST, 2015.

EXT.P3: TRUE COPY OF THE COMMERCIAL INVOICE NO.ZIT/07-15/040 DTD.27.7.2015 ACCOMPANIED WITH THE CONSIGNMENT.

EXT.P4: TRUE COPY OF THE BILL OF ENTRY NO.2470738 DTD.3.9.2015.

EXT.P5: TRUE COPY OF THE FORM 8F NO.32071344884/2015-16/401130 DTD.25.9.2015.

EXT.P6: TRUE COPY OF THE FORM 17A NOTICE NO.OR/VC/SPL/329/15-16 DTD.25.6.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P7: TRUE COPY OF THE LETTER DTD.28.9.2015 GIVEN BY THE C & F AGENT TO THE CUSTOMS AUTHORITIES.

EXT.P8: TRUE COPY OF THE LETTER DTD.26.9.2015 GIVEN BY THE PETITIONER TO THE CUSTOMS AUTHORITIES.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.29836 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.P6 notice issued to him detaining a consignment of car accessories that was imported by the petitioner at Chennai Port and was being transported to Cochin 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.P6, it is seen that, the objection of the respondents is essentially that the value declared by the petitioner for the consignment did not correspond with the value in the bill of entry under which the consignments were imported. The respondents therefore suspected a possible evasion of tax by manipulation of the documents that

accompanied the consignment. Counsel for the petitioner would submit that, the value of the consignment shown in the bill of entry itself was wrong and they are taking steps with the customs authorities at Chennai to get the value corrected. The petitioner was not however able to show the result of the steps stated to have been taken by him for getting the value corrected.

(ii) I take note of the fact that, the petitioner is a registered dealer in the State but going by the discrepancy in the value shown in the documents, the detention on the part of the respondents cannot be said to be unjustified. Under the circumstances, I direct the 1st respondent to release the goods and the vehicle to the petitioner on the petitioner paying 30% of the security deposit demanded in Ext.P6 and furnishing a simple bond without surety for the balance amount demanded therein 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/

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