IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

WP(C).No. 30099 of 2015 (J)

PETITIONER(S):

M/S. TIP TOP FURNITURE PVT.LTD.,
N.H.CHENGUVETTY, EDARIKKODE, KOTTAKKAL,
MALAPPURAM DISTRICT, REPRESENTED BY K.T.SAIDALAVI,
MANAGING DIRECTOR.

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENT(S):

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1. THE ASSISTANT COMMISSIONER (ASSESSMENT),
COMMERCIAL TAXES SPECIAL CIRCLE,
MALAPPURAM-676505.

2. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, NEW MAHE-673310.

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 30099 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: **COPY OF RETURN FILED BY THE PETITIONER FOR AUGUST 2015 BEFORE THE R1**

P2: **COPY OF INVOICE ISSUED BY THE PETITIONER FOR A CUSTOMER AT KASARAGOD**

P3: **COPY OF NOTICE IN FORM NO.17A ISSUED BY THE R2**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 30099 of 2015
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Dated this the 6th day of October, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P3 notice issued to him detaining a consignment of furniture that was being transported 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 appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

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.P3 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the petitioner had misclassified the item, in that in the invoices, some of the items were shown as non taxable goods. The respondents

therefore, suspected a possible evasion of tax. Counsel for the petitioner would submit that the rate of tax mentioned in the invoice was erroneous, and that this was an inadvertent mistake committed by the petitioner at the time of generating the invoices. It is also pointed out 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, and also taking into account the fact that the petitioner is a registered dealer, I direct the 2nd respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on the petitioner paying 30% of the security deposit amount demanded in Ext.P3 and furnishing a simple bond without sureties for the balance 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