

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. 30135 of 2015 (N)

PETITIONER:

**PHILIPS INDIA LIMITED,
SURVEY NO.820/17,
KUTHAMBAKKAM VILLAGE,
NEAR CHETIPEDU JUNCTION,
CHENNAI - 602 105,
REPRESENTED BY MR.KUMAR VENKITACHALAM -
AUTHORISED SIGNATORY.**

**BY ADVS.SRI.JOSEPH JERARD SAMSON RODRIGUES
SRI.ROVIN RODRIGUES**

RESPONDENT:

**THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
WALAYAR - 678 625, PALAKKAD DISTRICT.**

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:**

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APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE PHOTOCOPY OF PURCHASE ORDER DATED 18.8.2015 OF
M/S.HEALTH CARE INDIA, CALICUT.
- EXT. P2 : TRUE PHOTOCOPY OF THE CERTIFICATE OF REGISTRATION OF
M/S.HEALTH CARE INDIA, CALICUT.
- EXT. P3 : TRUE PHOTOCOPY OF THE TAX INVOICE NO.950285772
DATED 11.9.2015 FOR RS.1,23,938.16, ISSUED BY THE PETITIONER
M/S.PHILIPS INIDA LIMITED, CHENNAI.
- EXT. P4 : TRUE PHOTOCOPY OF THE TRANSACTION SLIP
NO.321108/PA01/123227/2015 DATED 12.9.2015.
- EXT. P5 : TRUE PHOTOCOPY OF THE NOTICE NO.OR/2747/9/15-16
DATED 18.9.2015, ISSUED BY THE RESPONDENT COMMERCIAL TAX
INSPECTOR, COMMERCIAL TAX CHECK POST, WALAYAR.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 30135 of 2015

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.P5 notice issued to him detaining a consignment of Batteries, Sensors and Thermal Papers 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 appearing for the petitioner and also the learned Government Pleader appearing for the respondent.

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.P5 notice, it is seen that the objection of the respondent is essentially with regard to the classification of the item, that was being transported. While the petitioner had shown the item as taxable at 5%, it is the case of the

respondent that the item is taxable at 14.5%. Counsel for the petitioner would submit that the petitioner is a registered dealer in the State, dealing in medical equipments and spare parts. The consignment consisted of batteries and thermal papers, which are used as accessories to the medical equipments, for the purposes of obtaining print outs of the reports generated by the machines. 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 respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the notice, before the respondent.

(ii) The 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 respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE