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. 30335 of 2015 (N)

PETITIONER:

M/S. SUMANGALAM INTERNATIONAL,
30/1080(1), COSMOS LANE,
KANNIYAMPUZHA ROAD, VYTTILA,
COCHIN - 682 019, REPRESENTED BY ITS
BRANCH MANAGER, SANTHOSH KUMAR G.

BY ADVS.SRI.K.J.ABRAHAM
SRI.NIKHIL JOHN

RESPONDENT:

THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
DEPARTMENT OF COMMERCIAL TAXES,
WALAYAR - 678 624.

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:

mbr/

WP(C).No. 30335 of 2015 (N)

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : **TRUE COPY OF THE REGISTRATION CERTIFICATE IN FORM NO.IA DATED 21.5.2015.**

EXT. P2 : **TRUE COPY OF THE INVOICE NO.SEP/RET/0170/15-16 DATED 7.9.2015.**

EXT. P3 : **TRUE COPY OF THE TRANSACTION SLIP ID NO.320711/PA01/22365/2015 DATED 7.9.2015.**

EXT. P4 : **TRUE COPY OF THE FROM 17A NOTICE NO.OR/2723/9A/15-16 DATED 16.9.2015.**

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.30335 of 2015

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Dated this the 6th day of October, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P4 notice issued to him detaining a consignment of printer parts 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 respondent.

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.P4 detention notice, it is seen that, the objection of the respondent is essentially with regard to the classification of the item under transport. While the petitioner had declared the commodity as IT products, according to the respondent, the item would come under the IIIrd schedule, although, for reasons best known to the respondent, he finds that it is taxable at 14.5%.

Counsel for the petitioner would submit that even if the goods come under the IIIrd schedule, the rate of tax applicable would be 5%.

(ii) The petitioner is also a registered dealer in the State. Taking note of the said submission, I direct the 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.P4.

(iii) 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.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/