IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

WP(C).No. 30697 of 2015 (J)
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PETITIONER(S):

M/S TRAVANCORE COCOTUFT PVT. LTD.,
COIR PARK, THIRUVUZHA, CHERTHALA - 688 539,
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.

BY ADV. SRI.A.KRISHNAN

RESPONDENT(S):
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1. **COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAX CHECK POST,
   WALAYAR.

2. **COMMERCIAL TAX OFFICER,**
   OFFICE OF THE COMMERCIAL TAX OFFICER,
   CHERTHALA - 688 524.

3. **THE STATE OF KERALA, REPRESENTED BY**
   THE SECRETARY, COMMERCIAL TAXES DEPARTMENT,
   THIRUVANANTHAPURAM - 695 001.

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 30697 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF NOTICE VIDE OR NO.2885/9/15-16 DTD.29.9.2015 ISSUED BY 1ST RESPONDENT.

EXT.P2: TRUE COPY OF TRANSACTION SLIP DTD.23.9.2015.

EXT.P2(a): TRUE COPY OF THE TAX INVOICE DTD.23.9.2015.

EXT.P3: TRUE COPY OF THE CERTIFICATE DTD.5.10.2015, ISSUED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 30697 of 2015
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Dated this the 9th day of October, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P1 notice issued to him detaining a consignment of Adhesive Solution 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.P1 notice, it is seen that the objection of the respondent is essentially with regard to the classification of the product for the purposes of taxation. While the petitioner had declared the goods as chemicals coming under the 3rd Schedule, the respondents maintain that the goods would merit classification as adhesive solutions. Counsel for the

petitioner would submit that the item in question is used in the production of rubber backed coir mats and therefore, the item, although would merit classification as an adhesive, in the case of the petitioner, it would be classified as an industrial input for the manufacture of rubber backed coir products. It is also pointed out that the petitioner is a registered dealer within 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 1st 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 1st respondent.

(ii) 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das 09.10.15