

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 31047 of 2015 (E)

PETITIONER :

**SUN DIRECT TV (P) LTD.,
7TH FLOOR, TRANS ASIA CORPORATE PARK
SEA PORT AIRPORT ROAD
KAKKANAD, KOCHI – 682 037
REPRESENTED BY ITS AUTHORISED SIGNATORY
SRI. DUSHYANTH K.K.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANIL KUMAR
SMT.G.MINI
SRI.P.S.SREEPRASAD**

RESPONDENT :

**COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHECK POST
FEROKE, KOZHIKODE – 673 631.**

BY GOVT. PLEADER SRI. LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE CERTIFICATE OF REGISTRATION DATED 11.12.2007.
- EXT.P2 COPY OF THE COMMUNICATION ISSUED TO THE ASSESSING OFFICER INTIMATING THE APPOINTMENT OF M/S. MAS ELECTRONICS, OYITTY ROAD, GRAND BAZAR, CALICUT DATED 24/8/2012.
- EXT.P3 COPY OF THE COMMUNICATION ISSUED TO THE ASSESSING OFFICER INTIMATING THE APPOINTMENT OF M/S. AKC MARKETING, TB ROAD, PERAMBRA, KOZHIKODE DATED 23/5/2012.
- EXT.P4 COPY OF LIST CONTAINING THE DISTRIBUTORS M/S. MAX ELECTRONICS, OYITTY ROAD, GRAND BAZAR, CALICUT AND M/S. AKC MARKETING, T.B. ROAD, PERAMBRA, KOZHIKODE.
- EXT.P5 COPY OF THE STOCK TRANSFER NOTE BEARING NO. 80936040 DATED 6/10/2015.
- EXT.P5A COPY OF THE STOCK TRANSFER NOTE BEARING NO. 80936042 DATED 6/10/2015.
- EXT.P6 COPY OF THE DELIVERY NOTE DATED 6/10/2015.
- EXT.P6A COPY OF THE DELIVERY NOTE DATED 6/10/2015.
- EXT.P7 COPY OF THE NOTICE DATED 7/10/2015.
- EXT.P8 COPY OF THE REPLY DATED 8/10/2015.
- EXT.P9 COPY OF THE JUDGMENT IN WRIT PETITION NO. 14604/2010 DT. 13.5.2010.
- EXT.P9A COPY OF THE JUDGMENT IN WRIT PETITION NO. 21053/2010 DT. 7.7.2010.
- EXT.P10 COPY OF THE NOTICE DATED OR/46/10-11 DATED 15.5.2010.

(Contd...)

WP(C).No. 31047 of 2015 (E)

EXT.P10A COPY OF THE NOTICE OR/198/10-11 DATED 29.6.2010.

EXT.P11 COPY OF ORDER PASSED BY THE INTELLIGENCE OFFICER DATED
2.7.2013 IN OR/46/10-11.

EXT.P11A COPY OF ORDER PASSED BY THE INTELLIGENCE OFFICER DATED
2.7.2013 IN OR/198/10-11.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31047 OF 2015 (E)

Dated this the 12th day of October, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P7 notice issued to him, detaining a consignment of set top boxes, antennas and cables, 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 and the submissions made across the Bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P7 notice, it is seen that the objection of the respondent is essentially that the

goods that were stated to be moving under stock transfer were consigned to premises which had independent registration under the KVAT Act. It was therefore suspected that the transportation of the goods was not pursuant to a stock transfer. Counsel for the petitioner would submit that the transaction, pursuant to which the goods were transported, was a stock transfer, and the premises to which the goods were stock transferred were also shown as additional stock point of the petitioner in the registration certificate issued to the petitioner. Taking note of the said submission and also the fact that the petitioner is a registered dealer within the State and that the transportation of the goods was duly accompanied by the documents under the KVAT Act, I direct the respondent to release the goods and the vehicle subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P7 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, untrammelled by the observations in this judgment.

(iii) The petitioner shall produce a copy of this

judgment and a copy of the writ petition before the respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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