

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 31255 of 2015 (F)

PETITIONER :

**M/S. INBISCO INDIA PVT. LTD.,
11/5, MANKARA, SHORNUR ROAD, PALAKKAD,
REPRESENTED BY A.SIVADAS, AREA SALES MANAGER.**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON
SRI.MAHESH V.MENON
SRI.RIYAS**

RESPONDENT(S):

- 1. ASST.COMMISSIONER,
DEPT. OF COMMERCIAL TAXES, SALES TAX COMPLEX,
PALAKKAD-678 001**
- 2. THE INTELLIGENCE INSPECTOR, SQUAD NO.III,
DEPARTMENT OF COMMERCIAL TAXES,
ALAPPUZHA-688 001**

BY GOVERNMENT PLEADER SMT. K.T.LILLY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 14-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING :**

sts

WP(C).NO.31255/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE INVOICE ISSUED BY THE PETITIONER TO M/S. SREE GANESH ENTERPRISES, THIRUVALLA, DATED 09/10/2015**
- P2 COPY OF THE GOODS RECEIPT GENERATED BY THE PETITIONER TO THE PURCHASER DATED 10/10/2015**
- P3 COPY OF THE NOTICE IN FORM NO.17A ISSUED BY THE 2ND RESPONDENT DATED 12/10/2015.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 31255 of 2015

Dated this the 14th 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 Cookies and Confectionery 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.P3 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the invoice that was raised on 09.10.2015 and accompanied the goods, that were dispatched on 10.10.2015 were intercepted at

Alappuzha on 12.10.2015 and on account of the delay, the respondents suspected multiple transportation using the same invoice. It is also stated that the original, duplicate and triplicate copies of the invoices were handed over together without a separate marking on them indicating it to be original, duplicate or triplicate. Counsel for the petitioner would submit that the delay in covering the district from Palakkad to Thiruvalla cannot be a reason for detention, inasmuch as there is no provision under the Act, which requires the said distance to be covered within a particular time frame. As regards the dispute with regard to the indication in the copies of the invoices, it is submitted that inasmuch as all three copies were available with the driver at the time of interception, there is no possibility of misuse of the invoice. Taking note of the said submission, 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 his executing a simple bond without sureties for the security deposit 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/ 14.10.15