

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 31632 of 2015 (D)

PETITIONER(S) :

**SRI.BALA CHANDRAN.K.B,
MANAGER, M/S DIGITAL AGE RETAIL PRIVATE LIMITED,
EBEN-EZER GARDEN, PIPE LINE ROAD, PALARIVATTOM,
COCHIN- 682 024.**

BY ADV. SRI.K.J.VINCENT (MUNDAMVELI)

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARTIAT, TRIVANDRUM- 695 001.**
- 2. THE INTELLIGENCE INSPECTOR- SQUAD NO VIII,
DEPT: OF COMMERCIAL TAXES, COMMERCIAL TAX COMPLEX,
THEVARA, COCHIN- 682 015.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: COPY OF REGISTRATION CERTIFICATE DATED 12-02-2015 ISSUED UNDER KVAT FOR THE COURIER SERVICE.

**EXHIBIT P2(A): TRUE COPIES OF THE FOLLOWING BILLS OF M/S FIRST CRY.
COM MUMBAI BILL NO.115533 DATED 06-09-2015 FOR SALE PANT
DIAPER PAYING FULL CST @ 14.5%.**

**EXHIBIT P2(B): NO 115428 DATED 06-09-2015 FOR SALE PANT DIAPER WITH CST
@ 14.5%.**

**EXHIBIT P2(C): NO.115310 DATED 06-09-2015 FOR SALE PANT DIAPER WITH CST
@ 14.5%.**

**EXHIBIT P2(D): NO.115371 DATED 06-09-2015 FOR SALE PANT DIAPER WITH CST
@ 14.5%.**

**EXHIBIT P2(E): NO.115653 DATED 06-09-2015 FOR SALE PANT DIAPER WITH CST
@ 14.5%.**

**EXHIBIT P2(F): NO.115617 DATED 06-09-2015 FOR SALE PANT DIAPER WITH CST
@ 14.5%.**

**EXHIBIT P2(G): NO.115559 DATED 06-09-2015 FOR SALE PANT DIAPER WITH CST
@ 14.5%.**

**EXHIBIT P2(H): NO.115700 DATED 06-09-2015 FOR SALE PANT DIAPER WITH CST
@ 14.5%.**

**EXHIBIT P2(I): NO.115678 DATED 06-09-2015 FOR SALE PANT DIAPER WITH CST
@ 14.5%.**

**EXHIBIT P2(J): NO.115554 DATED 06-09-2015 FOR SALE PANT DIAPER WITH CST
@ 14.5%.**

**EXHIBIT P2(K): NO.115159 DATED 06-09-2015 FOR SALE PANT DIAPER WITH CST
@ 14.5%.**

**EXHIBIT P3: MANIFEST OF TRANSPORT USED BY THE COURIERS
DATED 07-09-2015.**

**EXHIBIT P4: TRUE COPY OF DECLARATION OF PETITIONER IN FORM 8FA
DATED 07-09-2015.**

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**EXHIBIT P5: TRUE COPY OF THE DETENTION NOTICE IN FORM 17A
DATED 08-09-2015 ISSUED BY THE SECOND RESPONDENT**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.31632 of 2015

Dated this the 21st day of November 2015

JUDGMENT

The petitioner, is aggrieved by Ext.P5 detention notice issued to him detaining a consignment of Baby products that was being transported at the instance of the petitioner to various individual consignees. In the writ petition, the petitioner is aggrieved by the insistence of the respondents 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 respondents.

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.P5 detention notice, it is seen that the objection of the respondents is essentially that there was huge quantity of consignment transported through railway parcel

service on the strength of the TIN No. of a transporting agency. The petitioner, who is the consignee, according to the respondents did not have the authorisation to sell the consignment in Kerala. It was therefore that the goods were detained by the respondents. Counsel for the petitioner would submit that the product in question was to be delivered to individual customers at their door step and the petitioner was only entrusted with the transportation of the same. He produces a sample packet which would show that the invoice was made out in favour of the ultimate consignee of the goods and the value of each packet would be less than Rs.5,000/-. Taking note of the said submission of counsel for the petitioner, I direct the 2nd respondent to release the goods and vehicle covered by Ext.P5 notice, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P5 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

sm/