

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 31666 of 2015 (G)

PETITIONER(S):

**M/S. EDUCOMP SOLUTIONS LIMITED,
69/570, GOVINDAS BUILDING, AYYAPPANKAVU,
ERNAKULAM-682 018, REPRESENTED BY ITS
AUTHORISED SIGNATORY SHIBU RASHEED.**

**BY ADVS.SRI.V.DEVANANDA NARASIMHAM,
SRI.P.H.RIYAS.**

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.IV, COMMERCIAL TAXES,
MATTANCHERY AT MINI CIVIL STATION,
ALUVA-683 101.**
- 2. THE ASSISTANT COMMISSIONER (ASSESSMENT),
SPECIAL CIRCLE-III, COMMERCIAL TAX COMPLEX,
ERNAKULAM-682 015.**

BY GOVT. PLEADER SMT.LILLY. K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE TRIPARTITE AGREEMENT DATED 07/12/2011
EXECUTED BETWEEN THE PETITIONER WITH ONE RAJAH SCHOOL,
CHAVAKKAD, THRISSUR AND M/S.EDUSMART SERVICES PRIVATE
LIMITED.
- EXT.P2 COPY OF THE TAX INVOICE DATED 06/02/2012 ISSUED BY THE
PETITIONER TO M/S.RAJAH SCHOOL, THRISSUR.
- EXT.P3 COPY OF THE SUCH REQUEST-CUM-LETTER DATED 12/09/2015
TO REPLACE DEFECTIVE GOODS DURING THE WARRANTY PERIOD
FORWARDED BY RAJAH SCHOOL, THRISSUR TO PETITIONER.
- EXT.P4 COPY OF THE SUCH LETTERS DATED 23/09/2015 ALONG WITH
WAY BILLS ISSUED BY PARCEL/COURIER SERVICE AGENCY.
- EXT.P5 COPY OF THE 17A NOTICE DATED 23/09/2015 ISSUED BY THE
1ST RESPONDENT TO THE PETITIONER DEMANDING SECURITY
DEPOSIT TO RELEASE THE GOODS FOR TRANSPORTATION.

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.31666 of 2015

.....
Dated this the 16th day of October, 2015

JUDGMENT

The Petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.P5 notice issued to him detaining a consignment of S.T. Projector 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 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 along with the goods that was being transported there was no valid documents prescribed under the KVAT Act. Counsel for the petitioner would submit that, the petitioner is a registered dealer and there was a letter that accompanied the consignment which shown that

the goods were being validly transported.

(ii) On a consideration of submission of counsel for the petitioner, I am of the view that in the absence of valid documents to support the transportation the detention cannot be said to be unjustified. Accordingly, I direct the 1st respondent to release the goods and the vehicle to the petitioner on the petitioner paying 30% of the security deposit amount demanded in Ext.P5 and furnishing a simple bond without surety for the balance amount demanded.

(iii) 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.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

