

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. 31723 of 2015 (M)

PETITIONER :

**PHILIPS INDIA LIMITED., DOOR NO.VI/160B,
KUTTIKATTUKARA JUMA MASJID COMPOUND,
UDYOGAMANDAL-683 504, ERNAKULAM DISTRICT,
REPRESENTED BY ITS AUTHORISED SIGNATORY-
MR. KUMAR VENKITACHALAM.**

**BY ADVS.SRI.JOSEPH JERARD SAMSON RODRIGUES
SRI.ROVIN RODRIGUES**

RESPONDENT :

**THE INTELLIGENCE INSPECTOR,
SQUAD NO. III, DEPT. OF COMMERCIAL TAXES,
ERNAKULAM, CAMP AT COMMERCIAL TAX CHECK POST,
WALAYAR-678 625, PALAKKAD DISTRICT.**

BY GOVERNMENT 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:**

sts

WP(C).NO.31723/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER.**
- P2 COPY OF THE TAX INVOICE NO.53360681 DATED 09/10/2015 FOR RS.4,60,516/- ISSUED BY M/S. PRAXAIR INDIA LIMITED, THANE, MAHARASHTRA.**
- P3 COPY OF THE TAX INVOICE NO.53360682 DATED 09/10/2015 FOR RS.6,90,774/- ISSUED BY M/S. PRAXAIR INDIA PRIVATE LIMITED, THANE, MAHARASHTRA**
- P4 COPY OF THE E-CONSIGNMENT DECLARATION IN FORM NO.8F AS PER TOKEN NO.32150216575/2015-16/606001 DATED 10/10/2015 OF THE PETITIONER.**
- P5 COPY OF THE NOTICE NO.OR III/738/2015-16 DATED 13/10/2015 AT 12.05HRS ISSUED BY THE RESPONDENT**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.31723 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 surgical goods 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 the goods that were being transported interstate under the cover of a valid invoice, were accompanied by a declaration that showed that the goods were being supplied against a warranty claim. Counsel for the petitioner would submit that the description in the

declaration was a mistake and at any rate there was a valid invoice that showed the goods to be transported pursuant to an interstate sale.

(ii) It is also submitted that the petitioner is a registered dealer in the state. Taking note of the said submission, I direct the respondent to release the goods and the vehicle to the petitioner on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P5.

(iii) 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.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

