

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

WP(C).No. 31853 of 2015 (F)

PETITIONER :

**CORAL TELECOM LTD.,
37/430-D, MANGAT APARTMENTS,
KALOOR-KADAVANTHRA ROAD, KADAVANTHRA,
ERNAKULAM, PIN-682 020, REPRESENTED BY ITS BRANCH MANAGER,
SUCHITH DAS.**

BY ADV. SRI.R.MURALIDHARAN (ARROOR)

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
KVAT CIRCLE-II, TRIPUNITHURA,
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM DISTRICT, PIN-682 019**
- 2. THE INTELLIGENCE INSPECTOR, SQUAD NO.VIII,
OFFICER OF THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM, PIN-682 015**

BY GOVERNMENT PLEADER SMT. LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REGISTRATION CERTIFICATE ISSUED UNDER KVAT ACT, DATED 30/10/2014.**
- P2 COPY OF THE STOCK TRANSFER NOTE NO. TSN 000005815 DATED 25/09/2015**
- P2(A) COPY OF THE STOCK TRANSFER NOTE NO. TSN 000005915 DATED 25/09/2015**
- P2(B) COPY OF THE STOCK TRANSFER NOTE NO. TSN 000006115 DATED 26/09/2015**
- P2(C) COPY OF THE STOCK TRANSFER NOTE NO. TSN 000006215 DATED 26/09/2015**
- P2(D) COPY OF THE STOCK TRANSFER NOTE NO. TSN 000006315 DATED 26/09/2015**
- P2(E) COPY OF THE STOCK TRANSFER NOTE NO. TSN 000006415 DATED 26/09/2015**
- P2(F) COPY OF THE STOCK TRANSFER NOTE NO. TSN 000006515 DATED 26/09/2015**
- P3 COPY OF THE DECLARATION IN FORM 8FA UPLOADED BY THE PETITIONER, NO.320711/8FA/9821 DATED 28/09/2015**
- P3(A) COPY OF THE DECLARATION IN FORM 8FA UPLOADED BY THE PETITIONER, NO.320711/8FA/9825 DATED 28/09/2015**
- P3(B) COPY OF THE DECLARATION IN FORM 8FA UPLOADED BY THE PETITIONER, NO.320711/8FA/9831 DATED 28/09/2015**
- P4 COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT UNDER SECTION 47(2) DATED 02/10/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 31853 of 2015

Dated this the 19th day of October, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P4 notice issued to him detaining a consignment of telecommunication equipments 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.P4 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the goods under transportation were not accompanied by a delivery note issued by any tax authority. Counsel for the petitioner would submit

that there was a stock transfer note, that accompanied the transportation of the goods and a reference to the numbers of the stock transfer note was made in the declaration filed by the petitioner in Form 8-F, that was uploaded in the KVATIS website. It is also stated that the petitioner is a registered dealer in the State and there was no intention to evade tax. Taking note of the said submission, and finding that the transportation of the goods was otherwise in order, 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 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE