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. 31863 of 2015 (G)

PETITIONER(S) :

M/S.CHILTON REFRIGERATION INDUSTRIES,
C.L.ANANDLANE, M.G.ROAD, ERNAKULAM, KOCHI,
REPRESENTED BY ITS PROPRIETOR, MR.P.G.CHILPRAKASH.

BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD

RESPONDENT(S) :

COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, BANGRA,
MANJESHWAR, PIN- 671 323.

BY GOVERNMENT PLEADER SMT.K.T.LILLY

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

Msd.

WP(C).No. 31863 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE SALE INVOICE DATED 30.09.2015.

EXHIBIT P2: TRUE COPY OF THE FORM 8F DECLARATION/TRANSACTION SLIP DATED 30.09.2015.

EXHIBIT P3: TRUE COPY OF THE SAID NOTICE DATED 08.10.2015.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 31863 of 2015
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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.P3 notice issued to him detaining a consignment of Refrigeration equipments and parts & spares 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 classification of the items that were being transported. While the respondents allege that the

items would attract tax at 14.5%, it is the case of the petitioner that the item would be taxable at 5%. 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 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 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 respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

das /19.10.15