

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937Q

WP(C).No. 32355 of 2015 (T)

PETITIONER :

**M/S. APLAB LIMITED,
APLAB HOUSE, A-5/A-6, WAGLE ESTATE,
THANE-400 604, MUMBAI, REPRESENTED BY ITS AUTHORIZED
REPRESENTATIVE, SRI.K.KANNAN.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):

- 1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAXES CHECK POST, WALAYAR,
PALAKKAD DISTRICT, PIN-678 625**
- 2. THRISSUR EDUCATIONAL TRUST,
REPRESENTED BY PRINCIPAL OF JYOTHI ENGINEERING COLLEGE,
JYOTHI HILLS, PANJAL ROAD, VETTIKATTIRI.P.O.,
CHERUTHURITHY, THRISSUR-679 531**
- 3. COMMISSIONER OF COMMERCIAL TAXES, TAX TOWER,
KARAMANA, THIRUVANANTHAPURAM-695 022**
- 4. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001**

R1,R3 & R4 BY GOVERNMENT PLEADER SMT. LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE INVOICE NO.1510000000000757 DATED 05/09/2015 RAISED BY PETITIONER FOR THE INTERSTATE SALE OF COLLEGE LAB EQUIPMENTS, AFTER COLLECTING FULL RATE OF TAX AS PER MAHARASHTRA VALUE ADDED TAX ACT.**
- P1(A) COPY OF THE INVOICE NO.1510000000000723 DATED 02/09/2015 RAISED BY PETITIONER FOR THE INTERSTATE SALE OF COLLEGE LAB EQUIPMENTS, AFTER COLLECTING FULL RATE OF TAX AS PER MAHARASHTRA VALUE ADDED TAX ACT.**
- P1(B) COPY OF THE INVOICE NO.1510000000000758 DATED 05/09/2015 RAISED BY PETITIONER FOR THE INTERSTATE SALE OF COLLEGE LAB EQUIPMENTS, AFTER COLLECTING FULL RATE OF TAX AS PER MAHARASHTRA VALUE ADDED TAX ACT.**
- P2 COPY OF THE ONLINE DECLARATION FORM DATED 07/09/2015 SUBMITTED BEFORE 1ST RESPONDENT FOR TRANSPORT OF GOODS AS PER EXT.P2 INVOICE**
- P2(A) COPY OF THE ONLINE DECLARATION FORM DATED 07/09/2015 SUBMITTED BEFORE 1ST RESPONDENT FOR TRANSPORT OF GOODS AS PER EXT.P2(A) INVOICE**
- P2(B) COPY OF THE ONLINE DECLARATION FORM DATED 07/09/2015 SUBMITTED BEFORE 1ST RESPONDENT FOR TRANSPORT OF GOODS AS PER EXT.P2(B) INVOICE**
- P3 COPY OF THE FORM NO.16 ONLINE CERTIFICATE OF OWNERSHIP MADE AVAILABLE BY 2ND RESPONDENT AND PRODUCED BEFORE 1ST RESPONDENT ALONG WITH TRANSPORT DOCUMENTS, WHICH IS BASED ON EXT.P1, P1(A) AND P1(B) INVOICES.**
- P3(A) COPY OF THE TIN SEARCH REPORT FOR PAN AAATT65583F ALLOTTED TO 2ND RESPONDENT**
- P4 COPY OF THE NOTICE NO.2682/9/2015-16 DATED 11/09/2015 ISSUED THROUGH TRANSPORTER, BY 1ST RESPONDENT U/S. 47(2) OF THE KVAT ACT DEMANDING SECURITY DEPOSIT**
- P4(A) COPY OF THE NOTICE NO.2683/9/2015-16 DATED 11/09/2015 ISSUED THROUGH TRANSPORTER, BY 1ST RESPONDENT U/S. 47(2) OF THE KVAT ACT DEMANDING SECURITY DEPOSIT**
- P5 COPY OF THE REPLY DATED 01/10/2015 SUBMITTED BY 2ND RESPONDENT BEFORE 1ST RESPONDENT, IN UNDERTAKING THE OWNERSHIP OF GOODS.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

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P.S.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32355 OF 2015 (T)

Dated this the 26th day of October, 2015

J U D G M E N T

The petitioner is aggrieved by Exts.P4 and P4(a) notices issued to him, detaining a consignment of laboratory equipments that was being transported at the instance of the petitioner. 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 notices 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 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 Exts.P4 and P4(a) notices, it is seen that the objection of the respondents is essentially that the goods that were stated to be transported for the own use of Jyothi Engineering College, which was the consignee of the goods, was not

supported by a Form 16 certificate which bore the signature of the consignee. Counsel for the petitioner would submit that the online Form 16 certificate was downloaded and printed by the consignor although the manual Form 16 was signed by the consignee himself. He points out that the objection is purely technically and he has also produced as Ext.P3, the copy of the Form 16 certificate that was generated. Taking note of the submission of counsel for the petitioner, I direct the 1st respondent to release the goods and the vehicle subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Exts.P4 and P4(a) notices, before the 1st respondent.

(ii) 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, untrammelled by the observations in this judgment.

(iii) 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