

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. 32447 of 2015 (E)

PETITIONER(S):

**M/S.IOT ANWESHA ENGINEERING AND CONSTRUCTION LTD.,
PALLICHAKKALAYIL ROAD, SHEEYAS HOUSE NO.X/314 B, EROOR SOUTH,
THRIPUNITHURA, ERNAKULAM-682506, REPRESENTED BY ITS RESIDENTIAL
CONSTRUCTION MANAGER ARINDAM SAMANTA.**

BY ADV. SMT.K.LATHA

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY.**
- 2. THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, WALAYAR-678103.**

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:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE RELEVANT PAGES OF THE WORK ORDER LETTER OF ACCEPTANCE CONTRACT NO.10016321 DATED 8/3/13 ALONG WITH LETTER OF INTENT NOS.LPG/ENG/PT 301/12/IOTA DATED 8/3/13 BOTH ISSUED BY INDIAN OIL CORPORATION COCHIN TO THE PETITIONER COMPANY**
- P2: COPY OF THE SERVICE WORK ORDER DATED 7/9/15 EXECUTED BY THE PETITIONER COMPANY'S GUJARAT OFFICE WITH RED EARTH INFRA PROJECT P.LTD.,MUMBAI.**
- P3: COPY OF THE FORM NO.8F DATED 21/10/15**
- P4: COPY OF THE DETENTION NOTICE OR NO.722/4/2015-16 DATED 23/10/15 ISSUED BY THE R2 U/S 47(2) OF THE KVAT ACT TO THE PETITIONER.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 32447 of 2015

Dated this the 26th 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 Chain lifting and hoisting equipment 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 classification of the item as also the fact that, in the 8F declaration the address of the consignee

was shown as an address in Kerala, whereas in the work order the consignee's address was shown as in Gujarat. Counsel for the petitioner submits that the goods have been correctly classified by them and further, that the address of the consignee in Kerala was shown in 8F declaration, because the goods were being consigned to the address in Kerala for rendering some works on behalf of the petitioner and were to be returned eventually to Gujarat. 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 2nd 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