IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 32758 of 2015 (T)

PETITIONER :

SYMEGA FLAVOURS INDIA PRIVATE LIMITED.,
39/2032, AJAYVIHAR, M.G.ROAD, ERNAKULAM,
KOCHI-682 035, REPRESENTED BY ITS AUTHORISED
SIGNATORY SRI.VINU.G.

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENT(S):
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1. THE COMMERCIAL TAX INSPECTOR,
   COMMERCIAL TAX CHECK POST, WALAYAR,
   PALAKKAD DISTRICT, PIN-678 624

2. COMMERCIAL TAX OFFICER, 4TH CIRCLE,
   DEPT. OF COMMERCIAL TAXES, ERNAKULAM, PIN-682 018

BY GOVERNMENT PLEADER SMT. K.T.LILLY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.32758/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1	**COPY OF THE VAT RETURN FILED BEFORE THE 2ND RESPONDENT DATED 17/10/2015**
P2	**COPY OF THE PURCHASE INVOICE DATED 7/10/2015**
P2(A)	**COPY OF THE PURCHASE ORDER DATED 17/09/2015**
P2(B)	**COPY OF THE TRANSACTION SLIP UPLOADED IN THE OFFICIAL WEBSITE DATED 07/10/2015**
P2(C)	**COPY OF THE TRANSACTION SLIP MODIFIED DATED 22/10/2015**
P3	**COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DATED 18/10/2015**
P4	**COPY OF THE REPLY DATED 24/10/2015 FILED BY THE PETITIONER.**

RESPONDENT'S EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.32758 of 2015

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Dated this the 28th day of October, 2015

J U D G M E N T

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 peppermint oil 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 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.P3 it is seen that the objection of the respondents is with regard to the classification of the item. While the respondents maintain that the item would attract tax at 14.5%., the declaration by the petitioner showed the item as taxable at 5%. Counsel for the petitioner would

submit that the item in question is a raw material for the manufacturing activities carried on by the petitioner, and hence, the item would attract tax only at the rate of 5% under IIIrd Schedule to the Kerala Value Added Tax Act as an industrial input.

(ii) It is also pointed out that the transportation of the goods was otherwise accompanied by valid documents as contemplated under the Kerala Value Added Tax Act and that the petitioner is a registered dealer within the State. Taking note of the said submission, I direct the 1st respondent to release the goods and the vehicle to the petitioner, on the petitioner furnishing a simple bond without surety for the security deposit amounts demanded in Ext.P3 notice.

(iii) 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.

(iv) 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

mns/28.10.15