IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

WP(C).No. 32970 of 2015 (U)

PETITIONER(S):

LEGENDS SPORTS HUB, ST. JOHN'S ARCADE,
V/352/7, EAST FORT POST,
THRISSUR. PIN: 680005, REPRESENTED BY ITS
MANAGING PARTNER SRI.SIBU FRANCIS.

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR

RESPONDENT(S):

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1. INTELLIGENCE INSPECTOR,
SQUAD NO.IV, COMMERCIAL TAXES,
MATTANCHERRY AT MINI CIVIL STATION, ALUVA.

2.COMMERCIAL TAX OFFICER, FIRST CIRCLE,
COMMERCIAL TAX OFFICE COMPLEX, POOTHOLE,
THRISSUR - 680004.

R BY GOVERNMENT PLEADER SMT.LILLY.K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C).NO.32970/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF REGISTRATION CERTIFICATE.

EXT.P2: COPY OF INVOICE DATED 16.7.2014.

EXT.P2(A): COPY OF ANNUAL RETURN FOR THE YEAR 2014-15.

EXT.P3: COPY OF INVOICE DATED 28.07.2015.

EXT.P4: COPY OF NOTICE DATED 4.08.2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32970 OF 2015 (U)

Dated this the 29th day of October, 2015

<u>J U D G M E N T</u>

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P4 notice issued to him, detaining a consignment of sports shoes, 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 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 Ext.P4 notice, it is seen that the objection of the respondents is essentially with regard to classification of the item for the purposes of taxation. While the petitioner had shown the goods as taxable @ 5%, it is the stand of the respondents that the goods are taxable @ 14.5%. Counsel for the petitioner would submit that the apprehension of the Department is correct, in that the goods would correctly attract tax @ 14.5%. He submits that the goods when sold by the petitioner are sold @ 14.5% and the figure of 5% shown in the declaration was by mistake. It is also submitted 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 subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P4 notice, 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

prp/29/10/15