

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 33726 of 2015 (M)

PETITIONER(S):

**POLAKULATH NARAYANAN RANAI MEDICITY,
NO.35/273, POLAKULATH ROAD, MAMANGALAM,
PALARIVATTOM, KOCHI-25, REPRESENTED BY
THE MANAGING PARTNER SRI.P.N.KRISHNADAS.**

**BY ADVS.SRI.K.N.SREEKUMARAN
SMT.V.PSEENA DEVI**

RESPONDENT(S):

**COMMERCIAL TAX INSPECTOR,
COMMERCIALTAX CHECK POST, MUTHANGA,
WAYANAD-673692.**

BY GOVERNMENT PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE REGISTRATION CERTIFICATE UNDER THE KVAT/CST ACT ISSUED TO THE PETITIONER BY THE COMMERCIAL TAX OFFICER, KVAT CIRCLE-II, KALAMASSERY
- P2: COPY OF THE RETURN FOR 9/2015 FILED BY PETITIONER BEFORE THE BY THE COMMERCIAL TAX OFFICER KVAT CIRCLE-II, KALAMASSERY.
- P3: COPY OF THE TAX INVOICE NO.27/15-16 DATED 19/10/15 ISSUED BY M/S.POWER & ENGINEERING (P) LTD., BANGALORE ISSUED TO PETITIONER
- P4: COPY OF THE E-CONSIGNMENT DECLARATION IN FORM 8F BEARING NO.32071310908/2015-16/759366, 22/10/15 ACCOMPANIED THE CONSIGNMENT
- P5: COPY OF THE TRANSACTION SLIP BEARING NO.320713/PA01/89678/2015 UPLOADED ON 22/10/15 ACCOPANYING THE CONSIGNMENT
- P6: COPY OF THE CERTIFICATE OF OWNERSHIP IN FORM 16 BEARING NO.5595196138/2015 DATED 22/10/15 ACCOPANYING THE CONSIGNMENT
- P7: COPY OF THE NOTICE IN FORM 17 A BEARING NO.RO.1314/2015-16 DATED 27/10/15 ISSUED BY THE RESPONDENT

RESPONDENTS' EXHIBIT

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.33726 of 2015

Dated this the 6th day of November 2015

JUDGMENT

A consignment of Circuit breakers, that was being transported at the instance of the petitioner, was detained by the respondent. Ext.P7 is the detention notice issued to 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 for the petitioner and also the learned Government Pleader for the respondent.

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.P7 notice, it is seen that the objection of the respondent is essentially that the consignment was not declared in the online 8F declaration and further that the consignee was not

a registered dealer, and the online Form 16 was a photoshop version and not the downloaded, printed and signed version. Counsel for the petitioner would submit that the online declaration in Form 8F was actually uploaded to the KVATIS Website and he produces Ext.P4 document in support of the said contention. It is also pointed out that the goods transported were covered by a valid invoice and further, the certificate of ownership in Form 16 was also available in the KVATIS Website and it showed that the goods were for the own use of the consignee. Taking note of the said submission of counsel for the petitioner, and going through the documents that are produced along with the writ petition, I direct the respondent to release the goods and vehicle covered by Ext.P7 notice, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P7 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/