IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 34103 of 2015 (K)

PETITIONER :

SRI ANAGHA REFINERIES PVT LTD.,
SY. NO. 10/1(p), 12/3(P), 12/4(P),
INDUSTRIAL AREA BAIKAMPADY, MANGALORE
PIN-575 011, KARNATAKA STATE, REPRESENTED
BY ITS GENERAL MANAGER, T. VELUKUTTY, AGED 61 YEARS.

BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS :
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1. **THE COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAX CHECK POST, NEW MAHE - 673311.

2. **THE COMMISSIONER OF COMMERCIAL TAXES,**
   TAX TOWER, KARAMANA P.O., THIRUVANANTHAPURAM-695001.

R1 & R2 BY GOVERNMENT PLEADER SRI. RAJITH

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

bp

WP(C).No. 34103 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY F THE REGISTRATION CERTIFICATE DT 30/9/2015, ISSUED BY THE COMMERCIAL TAX OFFICER, COMMERCIAL TAXES, KASARAGOD.

P2: COPY OF THE REGISTRATION CERTIFICATE 11-11-2013 ISSUED BY THE COMMISSIONER OF COMMERCIAL TAXES, MANGALORE.

P3: COPY OF THE INVOICE NO. KSG161 DT 7/11/2015, DRAWN IN THE NAME OF CHATTAYIL STORES, MUVATTUPUZHA.

P3(A): COPY OF THE INVOICE NO. KSG162 DT 7/11/2015, DRAWN IN THE NAME OF CHATTAYIL STORES, MUVATTUPUZHA.

P4: COPY OF THE NOTICE DT 8/11/2015 ISSUED BY THE R1.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.34103 of 2015

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Dated this the 11th day of November, 2015

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

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 refined sunflower oil and RBD Palmolein 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.P4 detention notice, it is seen that the objection of the respondents is essentially that the transportation of the goods was not accompanied by a valid invoice as contemplated under the Kerala Value Added Tax Act. Counsel for the petitioner would submit that while the goods had

moved under the cover of a stock transfer invoice from Manglore to the depot at Kasaragod, the invoice that was to accompany the subsequent transportation of the goods from Kasargod to Muvattupuzha was not handed over to the driver since the driver had taken an alternate route and did not touch the depot at Kasaragod.

(ii) Taking note of the fact that the petitioner is a registered dealer in the State, but finding that there were no documents that accompanied the onward transportation from Kazaragod to Muvattupuzha, I direct the 1st respondent to release the goods and the vehicle to the petitioner, on the petitioner paying 30% of the security deposit amount demanded in Ext.P4 and furnishing a simple bond without surety for the balance amounts demanded therein before the 1st respondent.

(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/11.11.15