

**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. 34114 of 2015 (L)**  
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**PETITIONER(S):**  
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**KONICA MINOLTA BUSINESS INDIA PVT. LTD.,  
HAVING REGISTERED OFFICE AT III/407,  
PULIMOODU BUILDING, CHURCH ROAD,  
NORTH KALAMASSERY, ERNAKULAM - 683 104,  
REPRESENTED BY ITS MANAGER MR.SUDEESH P.S.**

**BY ADV. SMT.LATHA ANAND**

**RESPONDENT(S):**  
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- 1. COMMERCIAL TAX INSPECTOR,  
COMMERCIAL TAX CHECK POST,  
BANGARA, MANJESHWARAM,  
KASARAGOD - 671 323.**
- 2. STATE OF KERALA,  
REPRESENTED BY THE SECRETARY,  
TAXES DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM - 695 001.**

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

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

**msv/**

**WP(C).No. 34114 of 2015 (L)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**  
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**EXT.P1: TRUE COPY OF STOCK TRANSFER NOTE FOR SHIPMENT NO.1000274616  
DTD.26.10.2015.**

**EXT.P2: TRUE COPY OF STOCK TRANSFER NOTE FOR SHIPMENT NO.1000274543  
DTD.26.10.2015.**

**EXT.P3: TRUE COPY OF STOCK TRANSFER NOTE FOR SHIPMENT NO.1000274528  
DTD.26.10.2015.**

**EXT.P4: TRUE COPY OF STOCK TRANSFER NOTE FOR SHIPMENT NO.1000274501  
DTD.26.10.2015.**

**EXT.P5: TRUE COPY OF STOCK TRANSFER NOTE FOR SHIPMENT NO.1000274500  
DTD.26.10.2015.**

**EXT.P6: TRUE COPY OF THE FORM NO.8F, E-CONSIGNMENT DECLARATION  
DTD.27.10.2015.**

**EXT.P7: TRUE COPY OF THE NOTICE UNDER SECTION 47(2) OF THE KVAT ACT  
DTD.30.10.2015.**

**EXT.P8: TRUE COPY OF THE SUBMISSION OF THE PETITIONER DATED 5.11.2015.**

**RESPONDENT(S)' EXHIBITS:**  
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**NIL**

**//TRUE COPY//**

**P.S.TO JUDGE**

**Ms<sup>v</sup>/**

**A.K.JAYASANKARAN NAMBIAR, J.**

**W.P.(C) No. 34114 of 2015**

Dated this the 11<sup>th</sup> day of November 2015

**JUDGMENT**

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P7 detention notice issued to him detaining a consignment of Computer peripherals 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.P7 notice, it is seen that the objection of the respondents is essentially that the

goods under transport were declared by the petitioner as taxable @ 5%, whereas according to the respondents, it would attract tax @ 14.4%. Counsel for the petitioner would submit that going by the entries in the schedule to the KVAT Act, the item transported is correctly classifiable under a heading that attracts tax at 5%. It is also pointed out that the petitioner is a registered dealer within the state. Taking note of the said submission of counsel for the petitioner and finding that the transportation of the goods was otherwise in accordance with the provisions of the KVAT Act, I direct the 1<sup>st</sup> 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 1<sup>st</sup> respondent.

(ii) The 1<sup>st</sup> 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 1<sup>st</sup> respondent.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

sm/