

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WP(C).No. 34529 of 2015 (M)

PETITIONER(S) :

**KHAITAN ELECTRICALS LIMITED,
32/1495 A1, 2ND FLOOR, CHAKOS CHAMBERS,
CIVIL LINE ROAD, PALARIVATTOM, KOCHI, ERNAKULAM,
REPRESENTED BY ITS ASSISTANT COMMERCIAL MANAGER-
THOMAS PAUL.**

**BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.R.JAIKRISHNA**

RESPONDENT(S) :

- 1. ASSISTANT COMMISSIONER (ASSESSMENT),
SPECIAL CIRCLE - II, COMMERCIAL TAXES,
ERNAKULAM- 682 015.**
- 2. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECKPOST, KUNHIPALLI, MAHE,
P.O.CHOMBALA, KOZHIKODE-673 308.**

BY GOVERNMENT PLEADER SRI.RENJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 34529 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF FORM 8 INVOICE DATED 04.11.2015.

EXHIBIT P2: TRUE COPY OF FORM 8 INVOICE DATED 04.11.2015.

EXHIBIT P3: TRUE COPY OF FORM 8F DATED 07.11.2015.

**EXHIBIT P4: TRUE COPY OF THE DETENTION NOTICE ISSUED BY
THE 2ND RESPONDENT DATED 07.11.2015.**

**EXHIBIT P5: TRUE COPY OF THE DETENTION NOTICE ISSUED BY
THE 2ND RESPONDENT DATED 07.11.2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.34529 of 2015

Dated this the 16th day of November 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Exts.P4 and P5 detention notices issued to him detaining a consignment of Table fans and Wall fans, 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.

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 and P5 notices, it is seen that the objection of the respondents is essentially that the transportation of the goods was not

accompanied by an online 8F declaration. Counsel for the petitioner would submit that the online declaration in Form 8F was made available in the KVATIS Website by 3.30 p.m., whereas the detention in question was effected at 2.30 p.m. It is also submitted that the petitioner is a registered dealer within the State and the transportation of the goods was duly accompanied by a valid invoice in Form 8F. Taking note of said submission of counsel for the petitioner and finding that the petitioner is a registered dealer and that the transportation was accompanied by a valid invoice, and further that the 8F declaration was made available within an hour from the time of detention, I direct the 2nd respondent to release the goods covered by Exts.P4 and P5 notices, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Exts.P4 and P5 notices, before the 2nd respondent.

(ii) The 2nd 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 2nd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/