IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 34609 of 2015 (A)

PETITIONER(S) :

M/S.REDINGTON INDIA LTD.,
GROUND FLOOR, T.C 24/282, THYCAUD,
TRIVANDRUM- 695 014,
REPRESENTED BY ITS AUTHORIZED SIGNATORY MR.RAJENDRAN.

BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD

RESPONDENT(S) :

THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
WALAYAR- 678 624.

BY GOVERNMENT PLEADER SRI.RENJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 34609 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS :
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EXHIBIT P1: TRUE COPY OF INVOICE DATED 16.09.2015.

EXHIBIT P2: TRUE COPY OF THE NOTICE DATED 19.09.2015.

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.34609 of 2015

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Dated this the 17th day of November, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act is aggrieved by Ext.P2 notice issued to him detaining a consignment of wireless routers that was being transported at the instance of 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.P2 detention notice, it is seen that the objection of the respondent is essentially that in the 8F declaration submitted by the petitioner the goods were shown as computer systems and peripheral parts taxable at 5%. But the goods actually transported were telecommunication hardware equipment, wireless routers taxable at

14.5%. The respondent therefore doubted a misclassification of the commodity for the purposes of evasion of tax. Counsel for the petitioner would submit that the item in question actually computer peripherals and the classification adopted by the petitioner is correct. It is also submitted that the petitioner is a registered dealer in the State and the transportation of the goods was duly accompanied by valid documents as prescribed under the Kerala Value Added Tax Act.

(ii) Taking note of the said submission of counsel for the petitioner, I direct the respondent to release the goods and the vehicle to the petitioner, on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P2 detention notice.

(iii) 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.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/17.11.15