

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. 34678 of 2015 (H)

PETITIONER :

**JACOB POTHEEN
GENERAL ADMINISTRATOR
BELIVERS CHURCH MEDICAL COLLEGE HOSPITAL
KUTTAPUZHA, THIRUVALLA.**

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S) :

- 1. INTELLIGENCE INSPECTOR
SQUAD NO.III, COMMERCIAL TAXES DEPARTMENT
MALAPPURAM AT KOTTACKAL – 676 503.**
- 2. INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES CHECK POST
WALAYAR – 678 624.**
- 3. COMMERCIAL TAX OFFICER
THIRUVALLA, PATHANAMTHITTA DIST.-689 645.**
- 4. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
TAXES DEPARTMENT, GOVT. SECRETARIAT
TRIVANDRUM – 695 001.**

R1 TO R4 BY GOVT. PLEADER SMT. K.T. LILLY

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

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE POWER OF ATTORNEY DT. 9/7/2015.
- EXT.P2 COPY OF THE REGISTRATION CERTIFICATE DTD. 21/5/15 OF CTO, THIRUVALLA.
- EXT.P3 COPY OF THE VAT RETURN IN FORM NO. 10 FOR THE MONTH OF SEPTEMBER 2015, LATEST RETURN, E-FILED ON 30/10/2015.
- EXT.P4 COPY OF PURCHASE ORDER DT. 15/9/15.
- EXT.P5 COPY OF THE TAX INVOICE SUPPORTING THE INTERSTATE PURCHASE NO. 47 DTD. 4/11/2015 FOR RS. 1282079/- OF M/S. X SONI SYSTEMS PVT. LTD., NOIDA.
- EXT.P6 COPY OF THE LETTER DECLARING THE BONAFIDE OWN USE FILED ALONG WITH THE CONSIGNMENT.
- EXT.P7 COPY OF THE CERTIFICATE OF OWNERSHIP IN FORM NO. 16 DTD. 4/11/2015.
- EXT.P8 COPY OF THE LR IN NO. 1763/4.11.15 FOR RS. 110000/- OF M/S. SHARMA ROADWAYS, SAZHIYABAD.
- EXT.P9 COPY OF THE E-FILED DECLARATION IN FORM NO. 8F IN NO. 320000/2015-16/951908 DTD. 8/11/2015.
- EXT.P10 COPY OF THE OR NOTICE NO. VC/III/10MPM/389/11.11.15.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.34678 of 2015

Dated this the 17th day of November 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P10 detention notice issued to him detaining a consignment of laundry equipments 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 respondent.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P10 detention notice, it is

seen that the objection of the respondents is essentially that the item that was being transported was said to be for the own use of a hospital, whereas, the Form 16 certificate issued to certify the ownership, was not in the name of the hospital. The learned counsel for the petitioner would submit that the petitioner who signed the Form 16 is the authorised representative of the hospital, although the seal shown in Form 16 does not indicate it to be so. It is also stated that the hospital is a registered dealer within the State. Taking note of the said submission of counsel for the petitioner, but finding that there was a discrepancy in the Form 16 certificate, issued by the petitioner, 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 in Ext.P10 and furnishing a simple bond without sureties for balance amount demanded in Ext.P10 before the 1st respondent.

(ii) 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.

(iii) The petitioner shall produce a copy of this

judgment and a copy of the writ petition before the
1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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