IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

WP(C).No. 34800 of 2015 (Y)

PETITIONER :

M/S. SYSTEC CORPORATION,
GOKULAM, SREE NAGAR, MANACAUD,
THIRUVANANDAPURAM, REPRESENTED BY ITS
CHIEF TECHNICAL OFFICE, G. MURALI.

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON
SRI.MAHESH V.MENON
SRI. A.RIYAS

RESPONDENTS :

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1. ASST. COMMISSIONER (ASSESSMENT),
   COMMERCIAL TAXES SPECIAL CIRCLE,
   THIRUVANANDAPURAM - 695002.

2. COMMERCIAL TAX INSPECTOR,
   COMMERCIAL TAX CHECK POST, WALAYAR - 678555.

R1 & R2 BY GOVERNMENT PLEADER SMT. LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 34800 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF INVOICE OF BHAGYASREE INDUSTRIES DT 6/11/2015..

P2: COPY OF TRANSACTION SLIP GENERATED FOR THE TRANSPORTATION OF GOODS COVERED BY EXT P1 DT 6/11/2015.

P3: COPY OF NOTICE IN FORM 17A ISSUED BY THE R2 DT 9/11/2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 34800 of 2015
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Dated this the 18th day of November, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P3 notice issued to him detaining a consignment of Electronic Adapters with Jack 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 appearing for the petitioner and also the learned Government Pleader appearing 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.P3 notice, it is seen that the objection of the respondent is essentially that in the 8F declaration that was filed, the petitioner had shown the goods as attracting 5% tax under the 3rd schedule to the KVAT Act. The respondents,

however, found that the goods would merit classification under the 5th schedule and attract tax at 14.5%. Counsel for the petitioner would submit that the goods are correctly classified under the 3rd schedule and the tax has been correctly paid. It is also pointed out that the petitioner is a registered dealer in the State and that the transportation of the goods was accompanied by all the valid documents, that are prescribed under the KVAT Act. Taking note of the said submission, I direct the 2nd respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the notice, 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

das /18.11.15