

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937**

**WP(C).No. 35071 of 2015 (H)**  
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**PETITIONER :**  
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**COCHIN EXPORTS PRIVATE LIMITED,  
“COCHIN HOUSE” BYPASS JUNCTION, M.K.K. NAIR ROAD,  
PALARIVATTOM, KOCHI - 682024, ERNAKULAM DISTRICT  
REPRESENTED BY MR. V.V.KRISHNAKUMAR  
DIRECTOR & AUTHORISED SIGNATORY.**

**BY ADVS.SRI.JOSEPH JERARD SAMSON RODRIGUES  
SRI.ROVIN RODRIGUES**

**RESPONDENT :**  
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**THE INTELLIGENCE INSPECTOR  
SQUAD NO. III, DEPARTMENT OF COMMERCIAL TAXES,  
ERNAKULAM - 682015.**

**BY GOVERNMENT PLEADER SRI. R. RANJITH**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**bp**

**WP(C).No. 35071 of 2015 (H)**

**APPENDIX**

**PETITIONER'S EXHIBITS :**

- P1: COPY OF THE PURCHASE ORDER NO.RS/CN-EL/2015/2012 DT 14TH NOVEMBER, 2015 OF M/S. REALTECH SYSTEMS, COCHIN.**
- P2: COPY OF THE TAX INVOICE NO. EUA 616638 DT 16/11/2015 FOR RS. 44,179/-, ISSUED BY THE PETITIONER.**
- P3: COPY OF THE TAX INVOICE NO. EUA616639 DT 16/11/2015 FOR RS. 44,179/-, ISSUED BY THE PETITIONER.**
- P4: COPY OF THE NOTICE NO. OR III/822/2015-16 DT 16/11/2015, ISSUED BY THE RESPONDENT INTELLIGENCE INSPECTOR.**

**RESPONDENT'S EXHIBITS : NIL.**

**//TRUE COPY//**

**P.A. TO JUDGE**

**bp**

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

.....  
W.P.(C).No.35071 of 2015

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Dated this the 20<sup>th</sup> 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.P4 notice issued to him detaining a consignment of batteries 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.P4 detention notice, it is seen that the objection of the respondent is essentially that the consignments that were being transported were consigned to M/s.Realtech systems at CP Ummer Road, Cochin, but the goods were being transported to Thoppumpady. Counsel for the petitioner would submit that Exts.P2 and P3 invoices, which are referred to in Ext.P4 detention notice, were raised pursuant to Ext.P1 purchase order where

the delivery to the customer is contemplated at Thoppumpady. It is therefore pointed out that the invoices that accompanied the transportation pertained to the very same goods that were indented by the purchaser, and therefore, there was no attempt at evasion of tax. It is also pointed out that the petitioner is a registered dealer in the State.

(ii) Taking note of the said submission of counsel for the petitioner, I direct the respondent to release the goods and the vehicle covered by Ext.P4 detention notice to the petitioner, on the petitioner furnishing a simple bond without surety for the security deposit amount demanded therein.

(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**

