

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 35119 of 2015 (L)

PETITIONER(S):

- 1. SATENDER KUMAR,
AGED 28 YEARS, S/O.BALVANTH,
SISAN VILLAGE, DISTRICT HISSAR,
HARIYANA DISTRICT, PIN-125049.**
- 2. BALRAJ SINGH, AGED 33 YEARS,
S/O.VED PRAKASH, VPO-KITHANA,
DISTRICT KAITHAL, IMPHAL.**

**BY ADVS.SRI.J.JULIAN XAVIER
SRI.K.B.DAYAL**

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.4,
OFFICE OF THE INSPECTING ASSISTANT
COMMISSIONER (INTELLIGENCE),
COMMERCIAL TAXES, KANNUR, PIN-670 001.**
- 2. WESTERN REFRIGERATION PRIVATE LIMITED,
RAMAN KARTHA ROAD, CHERANELLOOR,
COCHIN-682034.**
- 3. WESTERN REFRIGRATION PRIVATE LIMITED,
REGISTERED OFFICE 7B,
PANNALAL SILK MILLS COMPOUND 78, LBS MARG,
BHANDUP (WEST), MUMBAI-400078.**

**R1 BY GOVERNMENT PLEADER SRI.R.RANJITH
R2 & R3 BY ADV. SMT.R.GAYATHRI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 35119 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 : TRUE COPY OF THE LORRY RECEIPT ISSUED BY THE DOSTI ROAD CARRIERS PRIVATE LIMITED DT 7-11-2015.
- P2 : A TRUE COPY OF THE FORM F ISSUED BY THE 3RD RESPONDENT.
- P3 : TRUE COPY OF THE 2ND PETITIONERS DRIVING LICENSE.
- P4 : TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE BEARING REGISTRATION NO.GJ-18-AU-8711.
- P5 : TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT UNDER SECTION 47(2) OF THE KERALA VALUE ADDED TAX ACT.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.35119 of 2015

Dated this the 27th day of November 2015

JUDGMENT

A consignment of 'Refrigerated display cabinets and chest freezer ' that was being transported at the instance of the 2nd respondent, is detained by the 1st respondent. In the writ petition, the petitioners and the 2nd respondent are aggrieved by the insistence of the respondents that the petitioners must pay the security deposit demanded in Ext.P5 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 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.P5 notice, it is seen that the objection of the 1st respondent is only that the consignment was not declared at the border commercial tax check post. Counsel for the 2nd

respondent would submit that the goods were being transported pursuant to a stock transfer and the goods were duly accompanied by a valid stock transfer invoice. It is also submitted that the 2nd respondent is a registered dealer within the State. Taking note of the said submission of counsel for the 2nd respondent, I direct the 1st respondent to release the goods and vehicle covered by Ext.P5 notice to the 2nd respondent, subject to the 2nd respondent furnishing a simple bond without sureties for the security deposit demanded in Ext.P5 notice, 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 petitioners and the 2nd respondent, within two months from the date of receipt of a copy of this judgment.

(iii) The petitioners and the 2nd respondent 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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