

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. 35599 of 2015 (Y)

PETITIONER :

**MEGHARAM PATEL, AGED 34 YEARS,
PROPRIETOR, SRI RAJESHWAR TRADERS,
THAKARAPARAMBU ROAD, PAZHAVANGADI,
FORT P.O, TRIVANDRUM - PIN 695 023**

BY ADV. SRI.MOHAMMED RAFIQ

RESPONDENTS :

- 1. THE INTELLIGENCE INSPECTOR
SQUAD NO VI, DEPARTMENT OF COMMERCIAL TAXES,
NEDUMANGAD, TRIVANDRUM, PIN 695 540**
- 2. THE COMMISSIONER OF COMMERCIAL TAXES,
GOVERNMENT OF KERALA, TAX TOWER, KILLIPPALAM
KARAMANA P.O, TRIVANDRUM PIN 695 002**
- 3. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY, TAXES DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM PIN 695 001**

BY GOVERNMENT PLEADER SRI.R. RANJITH

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

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE CERTIFICATE OF REGISTRATION DT 10/8/2015 ISSUED TO THE PETITIONER UNDER THE KERALA VALUE ADDED TAX ACT, 2003.**
- P2: COPY OF INVOICE N. LPT/861/2015-16 DT 19/9/2015 ISSUED TO THE PETITIONER BY M/S. LEADING POINT TECHNOLOGIES, HIMACHAL PRADESH.**
- P3: COPY OF INVOICE NO. TDR/388/2015-16 DT 19/9/2015 ISSUED TO THE PETITIONER BY M/S. LEADING POINT TECHNOLOGIES, HIMACHAL PRADESH.**
- P4: COPY OF THE TRANSACTION SLIP BEARING ID NO. 320108/PAO1/48504/2015 DT 19/9/2015 GENERATED IN RESPECT OF INVOICE NO.LPT/861/2015-16 DT 19/9/2015.**
- P5: COPY OF THE TRANSACTION SLIP BEARING ID NO. 320108/PAO1/48504/2015 DT 19/9/2015 GENERATED IN ESPECT OF INVOICE NO.TRD/388/2015-16 DT 19/9/2015.**
- P6: COPY OF THE NOTICE NO.OR179/15-16 DT 28/9/2015 ISSUED BY THE R1 UNDER SECTION 47(2) OF THE KERALA VALUE ADDED TAX ACT, 2003.**
- P7: COPY OF REPRESENTATION DT 4/11/2015 SUBMITTE BY THE PETITIONER BEFORE THE SECOND RESPONDENT.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.35599 of 2015

.....
Dated this the 27th 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.P6 notice issued to him detaining a consignment of battery 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 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.P6 detention notice, it is seen that the objection of the respondents is essentially with regard to an alleged undervaluation of the goods when compared to the MRP value that was declared for the goods. Counsel for the petitioner would submit that the transaction in question being an interstate purchase, the liability in respect of tax can only be on the vendor outside the State. The alleged undervaluation can therefore have no effect on the

said transaction as far as the State Government is concerned. It is also pointed out 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 1st respondent to release the goods to the petitioner, on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P6 detention notice.

(iii) 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.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

