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. 36000 of 2015 (Y)

PETITIONER :

M/S. SAFA AGENCIES, TP10/251, CHEMMAD ROAD,
KAKKAD, THIRURANGADI, MALAPPURAM DIST,
REPRESENTED BY THE MANAGING PARTNER
SHABEER ALI. K.

BY ADV. SRI.C.K.THANU PILLAI

RESPONDENT :
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1. **THE INTELLIGENCE INSPECTOR, SQUAD NO. IV,**
   COMMERCIAL TAXES, KASARGDE - 671121.

2. **THE COMMERCIAL TAX OFFICER,**
   THIRURANGADI, MALAPPURAM - 676306.

BY GOVERNMENT PLEADER SMT. LILLY K.T.

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

bp

WP(C).No. 36000 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF REGISTRATION CERTIFICATE NO. 32100688225 DT 29/12/2014 ISSUED BY THE R2.

P2: COPY OF TAX INVOICE NO.TG 2151 DT 24/11/2015 ISSUED BY M/S. GEBI PRODUCTS, THANE.

P3: COPY OF TAX INVOICE NO. WD271 DT 24/11/2015 ISSUED BY M/S. GEBI ENGINEERING PVT LTD. THANE.

P4: COPY OF FORM 8F DT 25/11/2015 DOWN LOADED BY THE PETITIONER

P5: COPY OF NOTICE OR NO. 283/25-16 DT 26/11/2015 ISSUED BY R1.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.36000 of 2015

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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.P5 notice issued to him detaining a consignment of cleaning items such as plastic, brushes, sprayers, gloves etc that were 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.P5 detention notice, it is seen that the objection of the respondents is essentially with regard to classification of the item for the purposes of tax. While the petitioner declared the item as coming under the IIIrd Schedule, it is the stand of the respondents that the items are plastic cleaning items attracting 5% tax. Counsel for the petitioner

would submit that the items in question have been correctly classified and the petitioner, as a registered dealer had ensured that the transportation of the goods was accompanied by valid documents 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 and the vehicle to the petitioner, on the petitioner furnishing a simple bond without surety for the security deposit amount demanded in Ext.P5 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

mns/27.11.15