IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 36194 of 2015 (Y)

PETITIONER(S):

M/S. PLAYWELL SPORTS,
MARKET ROAD, ERNAKULAM,
REPRESENTED BY ITS PROPRIETOR
CHENTHAMARAKSHAN.

BY ADV. SMT.S.K.DEVI.

RESPONDENT(S):
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1. **THE COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAX CHECK POST,
   WALAYAR- 678 625.

2. **THE ASST. COMMISSIONER (ASSMT),**
   DEPT. OF COMMERCIAL TAXES,
   SPL. CIRCLE I, ERNAKULAM -682 015.

BY GOVT. PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 36194 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 TRUE COPY OF THE NOTICE NO. OR/3290/9/15-16 DATED 12-11-2015.

EXT.P2 TRUE COPY OF THE INVOICE NO. CNE21237 DATED 21-10-2015.

EXT.P2A TRUE COPY OF THE INVOICE NO. CNE21851 DATED 28-10-2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 36194 of 2015

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Dated this the 1st day of December, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P1 notice issued to him detaining a consignment of Sports Footwear 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.P1 notice, it is seen that the objection of the respondent is essentially with regard to the classification of the goods for the purposes of tax. While the petitioner had declared the goods as sports goods coming under the 3rd Schedule to the KVAT, attracting tax @ 5%, the respondents were of the view that the goods would attract tax at 14.5%. Counsel for the petitioner would submit that the

goods are correctly classifiable as sports goods under the 3rd schedule. It is also pointed out that the petitioner is a registered dealer and that the transportation of the goods was duly accompanied by valid documents as contemplated under the KVAT Act. Taking note of the said submission of counsel for the petitioner, I direct the 1st 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 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 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 1st respondent.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

das /1.12.15