

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

WP(C).No. 36549 of 2015 (P)

PETITIONER(S):

**BLUE STAR LIMITED,
MILLENIUM PLAZA, ALINCHUVADU,
KOCHI - 24, REPRESENTED BY
K.JANARDHANAN, DEPUTY MANAGER.**

**BY ADVS.SRI.K.N.SREEKUMARAN
SMT.V.PSEENA DEVI**

RESPONDENT(S):

**INTELLIGENCE INSPECTOR,
COMMERCIAL TAXES, SQUAD NO.II,
KOZHIKODE - 673 001.**

BY GOVERNMENT PLEADER SRI.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 36549 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE EXTRACT OF THE PURCHASE ORDER DTD.9.4.2015 ENTERED INTO
WITH M/S. STAR CARE HOSPITAL, KOZHIKODE BY THE PETITIONER.**

**EXT.P2: TRUE COPY OF THE PURCHASE ORDER DTD.9.9.2015 PLACED BY THE
PETITIONER WITH M/S.DYNA FILTER PVT. LTD. PUNE.**

**EXT.P3: TRUE COPY OF INVOICE BEARING NO.0678/15-16 DTD.23.11.2015 ISSUED
BY M/S.DYNA FILTER PVT. LTD., PUNE TO PETITIONER.**

**EXT.P4: TRUE COPY OF THE E-CONSIGNMENT DECLARATION IN FORM 8F
ACCOMPANYING THE CONSIGNMENT.**

**EXT.P5: TRUE COPY OF THE NOTICE IN FOR 17 A BEARING VCR/II/790/15-16
DTD.30.11.2015 ISSUED BY THE RESPONDENT.**

**EXT.P6: TRUE COPY OF THE INVOICE DTD.30.10.2015 ISSUED BY THE PETITIONER TO
M/S.STAR CARE HOSPITAL P. LTD.**

**EXT.P7: TRUE COPY OF THE REPLY DTD.30.11.2015 FILED BY THE PETITIONER
BEFORE THE RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No. 36549 of 2015

Dated this the 3rd day of December 2015

JUDGMENT

The petitioner is aggrieved by Ext.P5 detention notice issued to him detaining a consignment of Air conditioners and parts 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.P5 notice, it is seen that the objection of the respondent is essentially that the goods were seen consigned to the petitioner, whereas the consignment was to be unloaded at

the premises of M/s. Star Care Hospital Pvt. Ltd., Calicut. The respondents therefore found that there was a works contract involved, where the petitioner was doing some works for the hospital in Calicut and the accompanying documents pertained only to the transaction between the supplier outside the state and the petitioner. Counsel for the petitioner would submit that the petitioner is engaged in a works contract for the hospital at Calicut, and he has been periodically raising invoices on the hospital, in respect of works carried out during the previous months. It is submitted that the invoice in respect of the present transaction would be raised immediately and the details of the same included in the returns to be filed for the respective month. It is also pointed out that the petitioner is a registered dealer within the State and the transportation of the goods was otherwise accompanied by valid documents as contemplated under the KVAT Act. Taking note of the said submission of counsel for the petitioner, I direct the respondent to release the goods and vehicle covered by Ext.P5 notice, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P5 notice, before the respondent.

(ii) 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.

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/