

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 36727 of 2015 (M)

PETITIONER :

**EXIDE INDUSTRIES LTD.,
HAVING ITS REGISTERED OFFICE AT EXIDE HOUSE,
59 E, CHOWRINGEE ROAD, CALCUTTA-20, AND HAVING A BRANCH
OFFICE AT DEVI BUILDING, DOOR NO.33/2469 G3, 1ST FLOOR,
CHAKARAPARAMBU, LABOUR COLONY ROAD, THAMMANAM,
COCHIN-682 032, REPRESENTED BY ITS AUTHORIZED SIGNATORY
JOSHY JOSEPH.**

**BY ADVS.SRI.RAJESH NAMBIAR
SRI.N.R.SAJ**

RESPONDENT :

**INSPECTING ASST. COMMISSIONER,
OFFICE OF THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECKPOST, WALAYAR, PIN-676 600**

BY GOVERNMENT PLEADER SRI.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).NO.36727/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE NOTICE U/S. 47(2) DATED 27/11/2015
- P2(A) COPY OF THE INVOICE NUMBER 1112519879 DATED 26/11/2015
- P2(B) COPY OF THE INVOICE NUMBER 1112519880 DATED 26/11/2015
- P2(C) COPY OF THE INVOICE NUMBER 1112519881 DATED 26/11/2015
- P2(D) COPY OF THE INVOICE NUMBER 1112519882 DATED 26/11/2015
- P3 COPY OF THE REPLY DATED 30/11/2015
- P4 COPY OF THE REVISED FORM 8F.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.36727 of 2015

Dated this the 4th day of December 2015

JUDGMENT

The petitioner is aggrieved by Ext.P1 detention notice issued to him detaining a consignment of Battery parts and Battery water, 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.P1 notice, it is seen that the objection of the respondent is essentially that while the goods have been declared as being transported pursuant to an inter-state sale, the 8F

declaration filed by the petitioner indicated the transaction as inter-state stock transfer. The respondents therefore suspected a possible attempt at evasion of tax. Counsel for the petitioner would submit that the transportation of goods was duly accompanied by an invoice, which clearly showed that it was an inter-state sale. He submits that the indication in the Form 8F declaration, of the transaction being an inter-state stock transfer, was a mistake and the petitioner has taken steps to file a rectified 8F declaration. It is also submitted that the petitioner is a registered dealer within the State. Taking note of the said submissions of counsel for the petitioner and finding that the invoice clearly showed that the goods were being transported pursuant to an inter-state sale, where the tax liability would be on the seller outside the state, I direct the respondent to release the goods and vehicle covered by Ext.P1 notice, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P1 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

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