IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

WP(C).No. 37836 of 2015 (D)
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PETITIONER(S):
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M/S. LOVELY CASH AND CARRY,
DOOR NO.40/1717, SHOP NO.D1,
2ND FLOOR, D.D. ANGADI COMPLEX,
MARKET ROAD, ERNAKULAM-682 011,
REPRESENTED BY ITS PROPRIETRESS
DEEPIKA PANWAR.

BY ADVS.SRI.K.J.ABRAHAM,
SRI.NIKHIL JOHN.

RESPONDENT(S):
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THE COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
WALAYAR-678 624.

BY GOVT. PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

**WP(C).No. 37836 of 2015 (D)**

## APPENDIX

**PETITIONER'S EXHIBITS:-**

| | |
|---|---|
| **EXT.P1** | **COPY OF THE REGISTRATION CERTIFICATE IN FORM NO.1A DATED 19/10/2015.** |
| **EXT.P2** | **COPY OF THE INVOICE NO.2136 DATED 01/12/2015.** |
| **EXT.P3** | **COPY OF THE TRANSACTION SLIP, TRANSACTION ID 320717/PA01/102663/2015 DATED 01/12/2015.** |
| **EXT.P4** | **COPY OF THE FORM NO.8F E-DECLARATION DATED 08/12/2015.** |
| **EXT.P5** | **COPY OF THE NOTICE NO.OR/3481/9/2015-16 DATED 07/12/2015.** |

**RESPONDENT'S EXHIBITS:-** **NIL.**

**//TRUE COPY//**

**P.S. TO JUDGE**

**rs.**

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C). No. 37836 of 2015**

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**Dated this the 15th day of December, 2015**

**JUDGMENT**

The petitioner is aggrieved by Ext.P5 notice issued to him detaining a consignment of Ready-made goods 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.P5 notice, it is seen that the objection of the respondent is essentially with regard to the classification of the goods for the purpose of tax. It is stated that while the goods were declared as textile material they were found to be ready-made goods. Counsel for the petitioner would submit that, in the invoice that accompanied the transportation of

the goods, the material was clearly shown as tops, which was a reference to Churidar tops, which were ready-made goods and not textile material. It is submitted that, although there is a reference to textile material in the transaction slip, this was an inadvertent mistake and at any rate, the petitioner had paid CST at 2%, which was applicable for ready-made goods and not for textiles. It is also stated that the petitioner is a registered dealer in the State. Taking note of the said submission of counsel for the petitioner, and finding that the transportation of the goods was otherwise in order, I direct the respondent to release the goods 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 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**

das /15.12.15