IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 38980 of 2015 (V)

PETITIONER :

SHAJI A.A.,
M/S. GYPSY LEATHERS
XI/482 A, AZHIKODE
THRISSUR DISTRICT
PIN – 680 666.

BY ADVS.SRI.P.N.DAMODARAN NAMBOOTHIRI
SRI.P.UNNIKRISHNAN (THRISSUR)

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

2. **THE COMMERCIAL TAX OFFICER**
   COMMERCIAL TAXES CHECK POST
   WALAYAR – 678 625.

3. **THE COMMERCIAL TAX OFFICER**
   DEPARTMENT OF COMMERCIAL TAXES
   KODUNGALUR – 680 664.

R1 TO R3 BY GOVT. PLEADER SMT. LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 38980 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1	:	**COPY OF THE REGISTRATION CERTIFICATE UNDER KERALA VALUE ADDED TAX ACT TIN NO. 32081095304 DATED 15-6-2007 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**
EXT.P2		**COPY OF THE INVOICE NO. 028 DATED 1-12-2015 AN AMOUNT OF RS. 74,002/- ISSUED BY M/S. SHAKTI ENTERPRISES, B-258, SECTOR -III, H.E.C. COLONY, DHURWA, RANCHI, JHARKHAND TO THE PETITIONER.**
EXT.P3		**COPY OF LR NO. 0464 DATED 12-2-2015 ISSUED BY THE TRANSPORTER TO THE PETITIONER.**
EXT.P4		**COPY OF THE TRANSACTION SLIP BEARING NO. 320810/PA01/8502/2015 DATED 11-12-2015 IN FORM 8F DECLARATION FILED BY THE PETITIONER BEFORE THE CHECK POST AUTHORITIES.**
EXT.P5		**COPY OF THE NOTICE NO. OR/3538/9/15-16 DATED 14-12-2015 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 38980 of 2015
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Dated this the 22nd day of December, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P5 notice issued to him detaining a consignment of Footwear, plastic outer soles and Uppers, 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 fact that the goods that attracted tax @ 14.5% in the State were declared as goods attracting tax @ 5%. Counsel for the petitioner would submit that the petitioner is a registered dealer and the error in the declaration in the transaction slip arose only on

account of the inadvertent mistake committed by the person choosing the description from the drop--down menu in the KVATIS website. It is pointed out that the actual rate of tax payable is 14.5% and that is the rate collected when the goods are sold by him within 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 and that the description of the goods as contained in the invoice that accompanied the transportation of the goods was correct, I direct the 1st 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 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 /22.12.15