IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

WP(C).No. 39467 of 2015 (G)

PETITIONER(S):

N.K.P.SONS, JEWS STREET,
ERNAKULAM, KOCHI-31,
(REPRESENTED BY M.P.THAJUDHEEN, PROPRIETOR).

BY ADVS.SRI.K.N.SREEKUMARAN
SMT.V.P.SEENA DEVI

RESPONDENT(S):

COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, WALAYAR-676624.

BY GOVERNMENT PLEADER SRI.R.RENJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 39467 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. THE TRUE COPY OF 4 INVOICES ISSUED BY PETITIONER DURING DECEMBER 2015

EXT.P2. THE TRUE COPY OF INVOICE NO.620 DATED 7/12/15 ISSUED BY M/S.ANHAD INTERNATIONAL DELHI

EXT.P3. THE TRUE COPY OF THE NOTICE OR/3525/9/15-16 DATED 13/12/15 ISSUED BY THE RESPONDENT

EXT.P4. THE TRUE COPY OF THE REPLY DATED 17/12/15 FILED BY THE PETITONER BEFORE THE RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 39467 of 2015

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Dated this the 23rd day of December, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P3 notice issued to him detaining a consignment of Dry fruits 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.P3 notice, it is seen that the objection of the respondent is essentially with regard to the fact that the classification of the item for the purposes of tax. It is pointed out that, while the petitioner declared the goods as dry fruits taxable at 5%, the goods were found to be Pista, which is taxable at 14.5%. Counsel for the petitioner would submit that he is a registered dealer and in the drop-

down menu in the KVATIS website the option available is only to classify the item as dry fruits and the petitioner sells the goods within the State by collecting tax @ 14.5% as applicable for Pista. Taking note of the said submission of counsel for the petitioner and finding that the transportation of the goods was duly covered by valid documents as prescribed under the KVAT Act, 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 /23.12.15