2025:KER:31959

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947

WP(C) NO. 15725 OF 2025

PETITIONER :

SOBHA ENTERPRISES
KOKKUR, MALAPPURAM DISTRICT,
REPRESENTED BY ITS PROPRIETOR BIJEESH P. V.,
PIN – 679 591

BY ADVS.
S.ANIL KUMAR (TRIVANDRUM)
SABU C.J
RAHUL A.
RAJAN K.

RESPONDENT :

ASST. ENFORCEMENT OFFICER
ENFORCEMENT SQUAD, WALAYAR,
STATE GST DEPARTMENT, SGST COMPLEX,
PALAKKAD, PIN – 678 001

SMT.JASMIN M.M., GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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BECHU KURIAN THOMAS, J.
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W.P.(C) No.15725 of 2025
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Dated this the 11th day of April, 2025

JUDGMENT

Petitioner seeks for a direction for release of the goods and the vehicle covered by Ext.P9, after payment of tax and penalty in respect of 4000 kgs. of goods found in excess of that covered by Ext.P1 invoice and Ext.P2 E-way bill.

2. Petitioner is a taxpayer under the CGST/KGST Act, 2017 and is engaged in the purchase and supply of arecanut. On 03.04.2025, while the petitioner was allegedly transporting arecanut in a vehicle bearing No.MH40-CM3244, it was intercepted and a statement of the driver was taken, as evident from Ext.P3. Subsequently, an order for physical verification of the goods was issued on 03.04.2025. In the meantime, petitioner requested by Ext.P5 to release the vehicle after accepting the tax and penalty calculated on the value in excess of what is covered by E-way bill. Though physical verification was carried out on 09.04.2025, the officer insisted the petitioner to appear for carrying out detailed inspection and issued an order of detention under Section 129(1) of the CGST Act. It is at this juncture that petitioner after filing Ext.P10 petition seeking release of the vehicle and the goods, has approached this Court

seeking for the direction as mentioned earlier.

3. The learned Government Pleader, upon instructions submitted that an order of detention has been issued and a detailed verification of the goods is required to be done for which purpose the petitioner was asked to be present in person. However, since he has not yet appeared, the verification could not be carried out in its entirety.

4. The learned counsel for the petitioner, on the other hand submitted that Ext.P10 was submitted in person and that the statement of the respondent that there was no personal appearance is incorrect.

5. On a perusal of the records produced, as well as on an appreciation of the contentions raised, it is evident that the respondent had initiated proceedings under Section 129 of the CGST Act. The statutory scheme provides for release of the goods on compliance with the stipulations therein. Specific orders from this Court is not necessary.

6. Petitioner has expressed its willingness to pay the amount of penalty or other sum that may be imposed. In such circumstances, there seems to be no serious dispute except that the respondent wants to have a physical verification of the entire goods to identify whether any other proceedings are required to be initiated as contemplated by the statute or otherwise.

7. In such circumstances, I am of the view that no orders are required to be issued except to observe that as and when petitioner

appears before the respondent, the physical verification of the goods shall be carried out without any delay and if any penalty or other demands are made in accordance with Section 129 of the CGST Act and if the petitioner pays the same, appropriate orders shall be issued. On compliance of such orders, respondent shall release the goods and vehicle, in accordance with law. It is clarified that physical verification of the entire goods shall be carried out on the day the petitioner appears before the respondent.

Writ petition is disposed of.

Sd/-
BECHU KURIAN THOMAS, JUDGE

RKM

APPENDIX OF WP(C) 15725/2025

PETITIONER'S EXHIBITS :

Exhibit P1	**A COPY OF THE INVOICE NO. SE-24-25/00001 DATED 02-04-2025**
Exhibit P2	**A COPY OF THE E-WAY BILL NO.551795954239 DATED 02-04-2025**
Exhibit P3	**A COPY OF THE STATEMENT DATED 03-04-2025 OF THE DRIVER IN MOV-01**
Exhibit P4	**A COPY OF THE ORDER FOR PHYSICAL VERIFICATION DATED 03-04-2025 IN GST MOV-02 ISSUED BY THE RESPONDENT**
Exhibit P5	**A COPY OF THE REPLY DATED 03-04-2025 FILED BY THE PETITIONER BEFORE THE RESPONDENT**
Exhibit P6	**A COPY OF THE NOTICE DATED 04-04-2026 ISSUED BY THE RESPONDENT**
Exhibit P7	**A COPY OF THE REPLY DATED 05-04-2025 FILED BY THE PETITIONER**
Exhibit P8	**A COPY OF THE PHYSICAL VERIFICATION REPORT DATED 09-04-2025 IN GST-MOV-04**
Exhibit P9	**A COPY OF THE DETENTION ORDER DATED 09-04-2025 IN GST-MOV-06**
Exhibit P10	**A COPY OF THE REPLY DATED 09-04-2025 FILED BY THE PETITIONER**
Exhibit P11	**A COPY OF THE RETURN IN FORM GSTR-3B FOR THE MONTH OF FEBRUARY, 2025**