IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 24TH DAY OF JANUARY 2018 / 4TH MAGHA, 1939

WP(C).No. 2666 of 2018

PETITIONER(S)

1 M/S. K.L.JOHAR & CO.
MARKET ROAD, COCHIN, REPRESENTED BY ITS MANAGING DIRECTOR.

2 GENERAL TRANSPORT
2ND FLOOR, PUNNACHLIL BUILDING, OPPOSITE DREAMS HOTEL, ERNAKULAM, KOCHI-682 020, REPRESENTED BY ITS PARTNER.

*(The writ petition will stand withdrawn as far as it relates to the second petitioner, without prejudice to the right of the second petitioner to file a fresh writ petition, as per the judgment dated 24.1.2018)

BY ADVS.SRI.MANU RAMACHANDRAN
SRI.T.S.SARATH

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPRUAM-695 001.

2. THE ASSISTANT STATE TAX OFFIER
STATE GOODS AND SERVICES TAX, MATTANCHERRY AT MINI CIVIL STATION ALUVA-683 101.

BY SR. GOVERNMENT PLEADER SRI.V.K.SHAMSUDHEEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-01-2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 2666 of 2018 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1.	THE TRUE COPY OF NOTICE U/S. 129(30 OF CGST ACT 2007.
EXHIBIT P2.	THE TRUE COPY OF LORRY RECEIPT NO.441 DATED 18/1/2018.
EXHIBIT P3.	TRUE COPY OF THE WAY BILL/INVOICE DATED 18/1/2018.
EXHIBIT P4.	TRUE COPY OF THE RCEIPT NO.440 DATED 18/1/2018.
EXHIBIT P5.	TRUE COPY OF THE WAY BILL/INVOICE DATED 18/1/2018.
EXHIBIT P6.	TRUE COPY OF THE EXPLANATION DATED 21/1/2018 BY THE 1ST PETITIONER
EXHIBIT P7.	TRUE COPY OF THE EXPLANATION DATED 21/1/2018 BY THE 2ND PETITIONER

(true copy) P.S. to Judge

P.B.SURESH KUMAR, J.

W.P.(C) No.2666 of 2018

Dated 24th January, 2018.

J U D G M E N T

When this Court entertained a doubt as to whether the petitioners in this writ petition can maintain a joint writ petition, the learned counsel for the petitioners sought permission to withdraw the writ petition in so far as it relates to the second petitioner, without prejudice to the right of the second petitioner to file a fresh writ petition.

2. Having regard to the facts and circumstances of the case, the permission sought by the learned counsel for the petitioners is granted.

3. Heard the learned counsel for the first petitioner as also the learned Government Pleader.

4. The case of the first petitioner is that certain goods have been consigned by M/s.GlaxoSmithKline

through the second petitioner transporter to the first petitioner as also to a distributor at Ottappalam; that the crew of the vehicle interchanged the documents of the goods to be delivered to the first petitioner and to the distributor at Ottappalam; that the conveyance and the goods intended to be delivered to the distributor at Ottappalam were detained by the second respondent under Section 129 of the Central Goods and Services Tax and the Kerala State Goods and Services Act on account of the discrepancy of the documents, and the first petitioner has been given Ext.P1 notice directing them to show cause why action shall not be taken against them under Section 129 of the CGST and SGST Acts.

5. According to the first petitioner, they have received the goods and the documents of the goods intended to be delivered over to the distributor at Ottappalam; that there is absolutely nothing wrong with

the documents and that therefore, proceedings shall not be initiated against them.

6. The grievance voiced by the first petitioner is one to be raised before the adjudicating authority under Section 129 of the CGST and SGST Acts. In the said view of the matter, the writ petition is disposed of directing the second respondent to complete the proceedings initiated in terms of Ext.P1 notice against the first petitioner within a week from the date of receipt of a copy of the judgment.

Sd/-

P.B.SURESH KUMAR, JUDGE.

tgs