

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 24TH DAY OF NOVEMBER 2017/3RD AGRAHAYANA, 1939

WP(C).No. 37991 of 2017 (Y)

PETITIONER(S):

**M/S. LEVEL 10 RETAIL VENTURE,
CHOO LACKAL BUILDING, 40/1681-A & 40/1681 AI,
CORPORATION OF COCHIN, CONVENT JUNCTION,
ERNAKULAM- 682 011.
REPRESENTED BY ITS MANAGING PARTNER**

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

RESPONDENT(S):

- 1. THE STATE TAX OFFICER,
STATE GOODS AND SERVICE TAX DEPARTMENT,
SQUAD NO. 1 MATTANCHERY AT MINI CIVIL STATION ALUVA.**
- 2. THE GOVERNMENT OF INDIA,
NEW DELHI, DEPARTMENT OF REVENUE, CENTRAL BOARD
OF EXCISE AND CUSTOMS, NEW DELHI- 110 001.
REPRESENTED BY THE SECRETARY TO GOVERNMENT, MINISTRY OF
FINANCE.**
- 3. STATE OF KERALA,
TAXES (B) DEPARTMENT, STATE GOODS & SERVICE TAX
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM- 695 001
REPRESENTED BY THE SECRETARY TO GOVERNMENT**

**R1, R3 BY GOVERNMENT PLEADER SRI. SHAMSUDHEEN.V.K.
R2 BY SREELAL N. WARRIER, SC,**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-11-2017, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sdr/-

WP(C).No. 37991 of 2017 (Y)

APPENDIX

PETITIONERS EXHIBITS

**EXT.P1 REGISTRATION CERTIFICATE ISSUED UNDER COMMERCIAL TAX
DEPARTMENT IN FORM NO., IA DATED 26.04.2017**

**EXT.P2 TRUE COPY OF THE REGISTRATION CERTIFICATE UNDER THE GST ACT, IN
FORM NO. GST-REG-06 DATED 21.09.2017**

**EXT.P3 TRUE COPY OF THE FORM NO. 15 DELIVERY NOTE NO.
320715/DN/7789/2017 DATED 21.11.2017**

**EXT.P4 TRUE COPY OF THE FORM NO. 15 DELIVERY NOTE NO.
320715/DN/7792/2017 DATED 21.11.2017**

EXT.P5 TRUE COPY OF THE DECLARATION DATED 21.11.2017

**EXT.P6 TRUE COPY OF THE NOTICE U/S. 129(3) OF THE CGST/SGST ACT NO. OR-
30/GST/2017-18 DATED 21.11.2017**

RESPONDENTS EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

sdr/-

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.37991 Of 2017 (Y)
.....
Dated this the 24th day of November, 2017

J U D G M E N T

A consignment of ready made textile goods that was being transported at the instance of the petitioner was detained by the respondents. Ext.P6 is the detention notice. In the writ petition, the petitioner is aggrieved by the insistence of the respondents 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 and the submissions made across the Bar, I dispose the writ petition with the following directions:

- (i) On a perusal of Ext.P6 detention notice, it is seen that the objection of the respondents is

essentially with regard to the transportation of the goods not being accompanied by a valid document as contemplated under the CGST and SGST Act and Rules. The learned counsel for the petitioner would submit that although the delivery chalan as contemplated under the SGST Rules and KER-1 did not accompany the transportation of the goods, he had submitted the delivery note in Form 15 of the Kerala Value Added Tax Act, which contains the particulars substantially similar to what is contemplated under Rule 55 of the CGST Act, and therefore, it is apparent that there is no intention to evade payment of tax. Taking note of the said submission of the said submission of counsel for the petitioner, but finding that the transportation of the goods was not accompanied by the valid documents as contemplated under the CGST/SGST Act and Rules, I dispose the writ petition by directing the 1st respondent to release the goods and the vehicle to the petitioner, on the petitioner furnishing a bank guarantee for the amount demanded in Ext.P6 notice.

(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, untrammelled by the observations in this

judgment.

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(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

mns/24.11.17