

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF OCTOBER 2017/4TH KARTHIKA, 1939

WP(C).No. 34021 of 2017 (C)

PETITIONER:

ASHOK LEYLAND LIMITED,
BUILDING NO.V 1136,
KUTTAKKATTUKARA POST,
ERNAKULAM,
REPRESENTED BY ITS AUTHORIZED SIGNATORY,
SHRI THOMAS BABY K.

BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD

RESPONDENT:

ASSISTANT STATE TAX OFFICER,
SQUAD NO.1, STATE GST DEPARTMENT,
PALAKKAD-679502.

BY GOVERNMENT PLEADER SRI.SHAMSUDHEEN.V.K

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-10-2017, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

mbr/

WP(C) .No. 34021 of 2017 (C)

APPENDIX

PETITIONERS' EXHIBITS:

- EXHIBIT P1: TRUE COPY OF THE STOCK TRANSFER INVOICE
DATED 09.10.2017.
- EXHIBIT P2: TRUE COPY OF DECLARATION IN GST KER-1
DATED 11.10.2017.
- EXHIBIT P3: TRUE COPY OF NOTICE DATED 14.10.2017.
- EXHIBIT P4: A COPY OF THE JUDGMENT IN WRIT PETITION NO.31328
OF 2017 DATED 04.10.2017 REPORTED IN 2017-VIL-
530 KER (DOWNLOADED FROM VAT INFOLINE
MULTIMEDIA).

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.34021 Of 2017
.....

Dated this the 26th day of October, 2017

J U D G M E N T

A consignment of motor vehicle chassis that was being stock transferred at the instance of the petitioner was detained by the respondent. Ext.P3 is the detention notice issued to 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 the 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, and on a perusal of Ext.P3 detention notice, it is seen that the objection of the respondent is essentially that the transportation of the goods was not accompanied by a valid copy of the stock transfer invoice/delivery chalan that ought to have accompanied the goods

as per the provisions of Rule 55 of the Central Goods and Services Tax (CGST) Rules. The learned counsel for the petitioner would submit that the necessary declarations under the CGST Rules were made in the KVATIS system, and further, there is no dispute with regard to the genuineness of the invoice, a copy of which accompanied the transportation of the goods. Under the said circumstances, I am of the view that there need not be a detention of the goods for the purposes of determining the liability of the petitioner to penalty. Accordingly, I direct the respondent to release the goods and the vehicle to the petitioner on his producing a copy of this judgment before the said respondent. The respondent shall, however, forward the files to the adjudicating authority for a decision, on merits, on the penalty, if any, to be imposed on the petitioner. The adjudication shall be completed within two weeks from the date of receipt of a copy of this judgment, after hearing the petitioner.

The writ petition is disposed as above.

Sd/
A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/26.10.17

