IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF OCTOBER 2017/21ST ASWINA, 1939

WP(C).No. 32520 of 2017 (L)

PETITIONER :

M/S. BHIMA ENTERPRISES,
ELANKATHU COMMERCIAL COMPLEX,
OPPOSITE S.L.THEATRE, THIRUVANANTHAPURAM,
(REPRESENTED BY ITS MANAGING PARTNER SRI.B.GOVINDAN).

BY ADVS.SRI.S.SURESH BABU (CHERUNNIYOOR)
SRI.AJI V.DEV

RESPONDENT(S):

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1. **THE ASSISTANT STATE TAX OFFICER,**
   SQUAD NO.III,
   STATE GOODS AND SERVICE TAX DEPARTMENT,
   THIRUVANANTHAPURAM AT NEYYATTINKARA- 695 001.

2. **THE ASSISTANT COMMISSIONER OF STATE TAXES,**
   STATE GOODS AND SERVICE TAX DEPARTMENT,
   TAX TOWERS, KARAMANA,
   THIRUVANANTHAPURAM-695 002.

3. **THE DEPUTY COMMISSIONER OF STATE TAXES,**
   STATE GOODS AND SERVICE TAX DEPARTMENT,
   TAX TOWERS, KARAMANA,
   THIRUVANANTHAPURAM-695 002.

BY GOVERNMENT PLEADER SRI.SHAMSUDHEEN.V.K.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-10-2017, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 32520 of 2017 (L)
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APPENDIX

PETITIONER(S)' EXHIBITS
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EXHIBIT P1 **TRUE COPY OF THE REGISTRATION CERTIFICATE NO. GSTIN. 32AAOFB9207G1ZJ DATED 21.09.2017 REGISTERED UNDER THE GST ACTS, 2017.**

EXHIBIT P2 **TRUE COPY OF THE INVOICE NO.SBTR-267 DATED 23.09.2017.**

EXHIBIT P(A) **TRUE COPY OF THE INVOICE NO. SBTR-268 DATED 23.09.2017.**

EXHIBIT P(B) **TRUE COPY OF THE INVOICE NO. SBNN-34363 DATED 23.09.2017.**

EXHIBIT P3 **TRUE COPY OF THE DELIVERY CHALAN NO. SBNN-34363 DATED 23.09.2017.**

EXHIBIT P4 **TRUE COPY OF THE SHOW-CAUSE NOTICE DATED 23.09.2017 UNDER SECTION 129 (3) OF THE GST ACT, 2017.**

EXHIBIT P5 **TRUE COPY OF THE OBJECTIONS DATED 28.09.2017 FILED BY THE PETITIONER.**

EXHIBIT P6 **TRUE COPY OF THE REVISED NOTICE DATED 03.10.2017 UNDER SECTION 129(3) OF THE GST ACT, 2017.**

EXHIBIT P6(A) **TRUE COPY OF THE OBJECTIONS DATED 04.10.2017 FILED BY THE PETITIONER.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.32520 Of 2017

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Dated this the 13th day of October, 2017

J U D G M E N T

The petitioner has approached this Court aggrieved by Exts.P4 and P6 detention notices that have been issued detaining a consignment of goods that was being transported at the instance of the petitioner. On a perusal of Exts.P4 and P6 notices, it is seen that, out of four consignments, three consignments were detained, on the ground that, the goods which were stated to be transported pursuant to an interstate sale were not accompanied by valid documents as prescribed under the State Goods and Service Tax (SGST) Rules. In respect of the fourth consignment covered by Ext.P3 delivery chalan, the objection is essentially that, while the chalan indicated that the goods were for sale, there was no invoice evidencing the sale, accompanying the said consignment.

2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that inasmuch as the first three consignments were accompanied by valid invoices raised by the petitioner, and it is not in dispute that there is no document prescribed under the Central Goods and Services Tax (CGST) Act and Rules for the purposes of covering an interstate movement in respect of consignments which have to suffer tax under the Integrated Goods and Services Tax (IGST) Act, the detention on the part of the respondents cannot be held to be valid and justified. I note, however, that in respect of the 4th consignment, the detention is justified inasmuch as what is shown in Ext.P3 delivery chalan is that the transaction is an interstate sale, whereas the document accompanying is only a chalan and not the invoice which is a prescribed document to evidence a sale. Under the said circumstances, I direct the 1st respondent to release the consignments, other than consignment covered by Ext.P3 delivery chalan, to the petitioner, on the petitioner producing a copy of this judgment before the said respondent. As regards the consignment covered by Ext.P3 chalan, the respondents are directed to complete the adjudication proceedings

in respect of the detention of the said consignment within a period of one week from the date of receipt of a copy of this judgment, after hearing the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/13.10.17