

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 31ST DAY OF AUGUST 2017/9TH BHADRA, 1939

WP(C)No.28277 of 2017 (H)

PETITIONER:

BEENA STEEL CORPORATION,
ERUVA P.O,
KAYAMKULAM,
PIN 690 564
REPRESENTED BY ITS PARTNER SRI.VISHNU VIJAYAN

BY ADV. SRI.S.ANIL KUMAR (TRIVANDRUM)

RESPONDENT:

THE ASSISTANT SALES TAX OFFICER,
GST DEPARTMENT,
THRISSUR 686 601

BY GOVERNMENT PLEADER SRI.SHAMSUDHEEN V.K

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31-08-2017, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 28277 of 2017 (H)

APPENDIX

PETITIONER EXHIBITS:

EXHIBIT P1 COPY OF CERTIFICATE OF REGISTRATION

EXHIBIT P2 COPY OF DELIVERY NOTE DATED 21-08-2017

EXHIBIT P3 COPY OF NOTICE DATED 22-08-2017 ISSUED BY THE 1ST
RESPONDENT

EXHIBIT P4 COPY OF REPLY DATED 22-08-2017 FILED BY THE
PETITIONER

RESPONDENT EXHIBITS: NIL

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PA TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.28277 of 2017

Dated this the 31st day of August, 2017

JUDGMENT

A consignment of GI Squares, that was being transported at the instance of the petitioner, was detained by the respondents. 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 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 as also the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P3 notice, it is seen that the objection of the respondent is essentially that the goods were being transported under cover of documents which were not the documents prescribed under the SGST Act. The

learned counsel for the petitioner would submit that the goods were transported under cover of a delivery note, which was prescribed under the KVAT Act, and this was necessitated since there was no prescribed format of the document that had to accompany the goods under the SGST Act. The learned Government Pleader would submit, on instructions, that the document that accompanied the goods did not contain the essential details prescribed under the SGST Act and Rules, for the purposes of transportation, and therefore, the documents used by the petitioner would not suffice to cover the transportation of the goods. Taking note of the said submission of the learned Government Pleader, on instructions, and finding that the detention cannot be said to be un-justified, I direct the respondent to release the goods and the vehicle covered by Ext.P3 detention notice, to the petitioner, on his furnishing a bank guarantee to cover the security deposit amount demanded in the Ext.P3 notice, before the respondent.

(ii) The 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.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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