IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2020 / 4TH AGRAHAYANA, 1942

WP(C).No.25943 OF 2020(P)

PETITIONER/S:

P.H.MUHAMMAD KUNJU AND BROTHERS
XL/43-77, MARKET ROAD, ERNAKULAM -682 035
REP.BY IT'S PARTNER ANWAR MOHAMED P.M.

BY ADVS.
SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD
SHRI.JOB ABRAHAM
SRI.AJAY V.ANAND

RESPONDENT/S:

ASSISTANT STATE TAX OFFICER
SPECIAL SQUAD, KERALA SGST DEPARTMENT, PALAKKAD 678 001

OTHER PRESENT:

GP DR THUSHARA JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.11.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner has approached this Court aggrieved by Ext.P7 notice issued in FORM GST MOV-7 detaining a consignment of goods that was being transported from Salem to Ernakulam. The goods in question were detained at Walayar on 10.11.2020 and the reason for detention is seen as a mis-match in the value of the goods transported, as shown in the e-way bill and job work invoice that accompanied the transportation of the goods.

2. The facts in the writ petition would reveal that a consignment of HR plates was sent from Ernakulam to Salem for the purposes of job work. The onward transportation from Ernakulam to Salem was duly accompanied by a tax invoice and an e-way bill generated by the petitioner herein, and the goods in question reached Salem where they were subjected to job work by the job worker. After completion of the said work, the goods were returned to Ernakulam from Salem, and in the said leg of transportation, the consignment was accompanied by a job work invoice issued by the job worker in Salem as also an e-way bill generated by the job worker. The defect pointed out by the respondent is in respect of the e-way bill that accompanied the transportation from the job worker's premises in Salem to the petitioner in Ernakulam. It is stated that the value shown in the e-way bill is only Rs.3469.76/- whereas, the consignment of the MS plates that was sent for job work was valued at Rs.8,27,708.87/-. The said difference in the value is shown as the reason for the detention as the value shown in the e-way bill did not match the value of the consignment itself.

3.I have heard Sri. A. Kumar, the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I am of the view that inasmuch as the detention of the goods was during the return journey from the job-workers premises to the petitioner's premises, the documents that ought to have accompanied the transportation were the job work invoice, the delivery challan and the e-way bill. In the instant case, it is not in dispute that the consignment was covered by the job-work invoice, an e-way bill as also the delivery challan that originally accompanied the goods on its transportation from Ernakulam to the job worker's premises in Salem. As per the statutory provisions, when goods are sent to other premises for job work, it is the same delivery challan that has to accompany the transportation for the onward and return journey as well. At any rate the objection of the respondents is only with regard to the value shown in the e-way bill that accompanied the goods on its return journey. In that context, it has to be noticed that the value shown in the e-way bill on the return journey had to correspond with the value shown in the invoice raised by the job worker, and the rate of Rs. 3469.76/- shown in both the documents was the actual consideration paid to the job worker for the job work done on the goods sent to him by the petitioner. It is also relevant to note that in the e-way bill as also the job work- invoice, the quantity of the goods is correctly shown as 15,490 Kgs and the description of goods is also shown as ‘HR plates’. In as much as there could be no doubt with regard to the identity of the goods that were being transported, and the difference in the value shown in the e-way bill (from that shown in the original delivery chalan) was only on account of the requirement of maintaining uniformity in the value shown in the tax invoice raised by the job worker and the e-way bill generated by him, I am of the view that the detention in this case was wholly unjustified. Accordingly, I allow this writ petition by quashing Exts.P5,P6 and P7 and directing the respondents to release the goods and the vehicle to the petitioner on his producing a copy of this judgment before the respondent. The learned Government Pleader shall also communicate the gist of this judgment to the respondent for facilitating an early clearance of the goods and the vehicle.

Sd/-

A.K.JAYASANKARAN NAMBIAR

JUDGE

SJ

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF DELIVERY CHALLAN DATED 7.11.2020
EXHIBIT P2	TRUE COPY OF THE JOB WORK INVOICE NO.SLM 1643 DATED 7.11.2020
EXHIBIT P3	TRUE COPY OF THE E-WAYBILL NO.5212 1561 7545 DATED 7.11.2020
EXHIBIT P4	TRUE COPY OF GST MOV-02 DATED 10.11.2020
EXHIBIT P5	TRUE COPY OF GST MOV-04 DATED 10.11.2020
EXHIBIT P6	TRUE COPY OF GST MOV-06 DATED 10.11.2020
EXHIBIT P7	TRUE COPY OF GST MOV-07 DATED 10.11.2020
EXHIBIT P8	TRUE COPY OF CIRCULAR NO.38/12/2018 DATED 26TH MARCH, 2018