IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

&

THE HONOURABLE MR. JUSTICE T.R.RAVI

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

W.A.No.1735 OF 2020

AGAINST THE JUDGMENT IN WP(C) NO.18565/2020(U) OF THE HIGH COURT OF KERALA DATED 01.10.2020

APPELLANT/PETITIONER:

BON CARGOS PRIVATE LIMITED
PERINGAPPURAM, NH 66, MYLAKKAD, KOTTIYAM,
KOLLAM-691 571, REPRESENTED BY ITS GENERAL MANAGER
SRI. MANOJ KUMAR R.

BY ADVS.
SRI.AJI V.DEV
SRI.ALAN PRIYADARSHI DEV
SHRI.KIRAN RAMACHANDRAN NAIR

RESPONDENTS/RESPONDENTS:

1 **THE ASSISTANT STATE TAX OFFICER**
(24*7) MOBILE SQUAD, S.G.S.T DEPARTMENT,
IDUKKI, PAYYANUR-670 307.

2 **THE STATE TAX OFFICER,**
S.G.S.T DEPARTMENT, PAYYANUR-670 307.

3 **THE COMMISSIONER OF STATE TAX,**
S.G.S.T DEPARTMENT, TAX TOWER, KILLIPPALAM, KARAMANA P.O., THIRUVANANTHAPURAM-695 002.

BY SENIOR GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 21.12.2020, ALONG WITH WA.1736/2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

&

THE HONOURABLE MR. JUSTICE T.R.RAVI

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

WA.No.1736 OF 2020

AGAINST THE JUDGMENT IN WP(C) NO.18324/2020(M) OF THE HIGH COURT OF KERALA DATED 01.10.2020

APPELLANT/PETITIONER:

BON CARGOS PRIVATE LIMITED, PERINGAPPURAM, NH 66, MYLAKKAD, KOTTYAM, KOLLAM-691 571, REPRESENTED BY ITS GENERAL MANAGER SRI.MANOJ KUMAR R.

BY ADV. SRI.AJI V.DEV

RESPONDENT/RESPONDENT:

1. **THE ASSISTANT STATE TAX OFFICER (INT), S.G.S.T DEPARTMENT, SQUAD NO.111,IDUKKI AT DEVIKULAM, REVENUE BUILDING, DEVIKULAM-685 613.**

2. **THE STATE TAX OFFICER, S.G.S.T DEPARTMENT, SQUAD NO 111, IDUKKI AT DEVIKULAM, REVENUE BUILDING, DEVIKULAM-685 613.**

3. **THE COMMISSIONER OF STATE TAX, S.G.S.T DEPARTMENT, TAX TOWER, KILLIPPALAM, KARAMANA P.O, THIRUVANANTHAPURAM-695 002.**

BY SENIOR GOVERNMENT PLEADER SRI.K.B.RAMANAND

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 21.12.2020, ALONG WITH WA.1735/2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Vinod Chandran, J.

The identical appellant is before us challenging the judgment of a learned Single Judge refusing to interfere with two separate orders of detention. The learned Senor Government Pleader submits that the goods detained have already been released on Bank guarantee. Adjudication proceedings were commenced and in one of the cases, final order has been passed. The learned Counsel appearing for the appellant vehemently argues that the proceedings initiated itself are without jurisdiction. The goods detained had a value of less than Rs.50,000/- and there is an exemption as available under Rule 138 of the Central Goods and Service Tax Rules, 2017.

2. Before we look at the provision, we have to notice the facts. In W.A. No.1735 of 2020, the detention was on 06.09.2020. The goods

detained were covered by two invoices raised by the same consignor, one dated 04.09.2020 and the other dated 05.09.2020; respectively having value of Rs.33,748/-. The goods were carried together in one vehicle by the appellant, who is a Goods Transport Agency. There was no e-way bill accompanying the consignment.

3. In W.A. No.1736 of 2020 again the identical consignor had raised two separate invoices to the identical consignee with respective value of Rs.43,836/- and Rs.11,593/-; both dated 17.08.2020. The consignor generated e-way bills for the two invoices, but the appellant-Transport Agency did not update part B of the e-way bill. The above goods were also transported in the same vehicle together and was detained for reason of there being no e-way bill accompanying the goods.

4. Both the transports were within the State. The violation alleged according to the

appellant cannot be sustained, since Rule 138 provides only for generation of e-way bill with respect to movement of goods of consignment value exceeding Rs.50,000/-. At the outset it is to be noticed that it is not the invoice value that provides the limit. Sub-Rule (1) of Rule 138 provides that before commencement of movement of goods, information relating to the goods consigned, as specified in Part A in FORM GST EWB-01 shall be furnished electronically on the common portal. The first proviso also enables a transporter, with authorisation from the registered person, to furnish such information. Sub-Rule 2 enjoins the supplier or the recipient to furnish such information before or after the commencement of movement, again on the common portal in Part B. Sub-Rule (3) provides that when an e-way bill by the consignor or the consignee in Part B, as provided in sub-Rule 2 is not generated, the transporter shall furnish the

information by generating Part A.

5. Explanation 2 defines the consignment value of goods to be that declared in an invoice, a bill of supply or a delivery chalan including the goods and services tax payable with any Cess charged. Sub-Rule (1) read with Explanation 2 leads to only one inference that the consignment value has to be determined from the invoice. But when goods of the same consignment covered by multiple invoices exceed the limit of Rs.50,000/-, necessarily there should be generation of e-way bill. Otherwise the mandate for generation of an e-way bill would be defeated and rendered redundant enabling the consignors to issue any number of bills having value below Rs.50,000/- and consign them in one vehicle. The consignment value is that shown in the invoice. When goods of the same consignor covered by different invoices are consigned together in one vehicle; the value will be the total of that in

the multiple invoices. We are hence not satisfied that the detention was without jurisdiction. As pointed out by the learned Senior Government Pleader in one case already an adjudication order is also passed.

6. We neither interfere with the judgment of the learned Single Judge nor discern a valid ground to find lack of jurisdiction in the Statutory Authority, who carried out the detention.

Both writ appeals are dismissed. No costs.

Sd/-
K.VINOD CHANDRAN, JUDGE.

Sd/-
T.R. RAVI, JUDGE.

sp/23/12/2020 **//True Copy//**

P.A. To Judge