

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

FRIDAY, THE 11TH DAY OF SEPTEMBER 2020 / 20TH BHADRA, 1942

WP(C).No.18698 OF 2020

PETITIONER:

THE PIT STOP, KMC-X1/164, M.G.ROAD,
KASARGODE 671 121 REPRESENTED BY
ITS PROPRIETOR, MOIDEENKUTTY,
S/O.ISMAIL P.M., AGED 42.

BY ADV. SRI.ADITHYA RAJEEV

RESPONDENT:

THE ASSISTANT STATE TAX OFFICER,
SQUAD NO.3, NORTH PARAVOOR, OFFICE OF
COMMERCIAL TAX DEPARTMENT, PIN 683 513.

GOVERNMENT PLEADER DR. THUSHARA V. JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11.09.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 11th day of September, 2020

The petitioner purchased car tyres totalling to 120 numbers as per Exts.P2 to P4 invoices from a consignor at New Delhi. The petitioner states that when the goods were unloaded at the business place of the petitioner at Aluva, which is the place of destination as per the invoices, the respondent asked the driver of the transport vehicle, who was leaving the place to load the entire goods back into the lorry. The Manager of the petitioner was informed that the respondent intends to detain the consignment. The driver was questioned and Form GST Mov-01 was issued.

2. The petitioner states that no further action has been taken by the respondent to further the proceedings. No inspection is conducted and there is no order of detention. According to the petitioner, the petitioner had complied with all the requirement of transportation under

CGST and SGST Rules. If the goods are detained by oral orders, the petitioner will be put in irreparable injuries.

3. Heard the learned counsel for the petitioner and learned Government Pleader for the respondent.

4. The learned Government Pleader submits that the goods have been detained for the reason that goods have been unloaded at a place other than the recorded destination. The respondent will be proceeding further and adjudicate the matter.

5. Be that as it may, the petitioner has not been served with a detention order so far, though the goods were detained from 09.09.2020. In the facts of the case, this Court is of the firm opinion that to meet the ends of justice, the petitioner get release of all goods and conveyance, on providing bank guarantee for the amount involved. The learned Government Pleader submits that the amount of tax and penalty together will come to ₹2,34,500/-.

The writ petition is therefore disposed of directing the

respondent to release the goods and conveyance on the petitioner, providing bank guarantee for an amount of ₹2,34,500/-. The respondent shall complete and conclude the adjudication proceedings within a period of one week from the date of receipt of a copy of this judgment.

Sd/-

**N. NAGARESH
JUDGE**

ncd

APPENDIX

PETITIONER'S EXHIBITS

- EXHIBIT P1 A TRUE COPY OF THE REGISTRATION
CERTIFICATE OF THE PETITIONER'S BUSINESS
INCLUDING THE DETAILS OF THE PLACES OF
THE BUSINESS.
- EXHIBIT P2 A TRUE COPY OF THE 1ST INVOICE DATED
22.08.2020.
- EXHIBIT P3 A TRUE COPY OF THE 2ND INVOICES DATED
25.08.2020.
- EXHIBIT P4 A TRUE COPY OF THE 3RD INVOICES DATED
25.08.2020.
- EXHIBIT P5 A TRUE COPY OF THE CONSOLIDATED E-WAY
BILL, COVERING THE ENTIRE TRANSPORTATION
IN ACCORDANCE WITH EXHIBIT P2 TO P4
INVOICES GENERATED TO FACILITATE THE
TRANSPORTATION
- EXHIBIT P6 A TRUE COPY OF THE STATEMENT OF THE
OWNER/DRIVER IN FORM GST MOV=01 DATED
09.09.2020.
- EXHIBIT P7 A TRUE COPY OF THE MAHAZER DATED
09.09.2020.
- EXHIBIT P8 A TRUE COPY OF THE ORDER FOR PHYSICAL
VERIFICATION IN FORM GST MOV-02 DATED
09.09.2020.