

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 11TH DAY OF AUGUST 2020 / 20TH SRAVANA, 1942

WP (C) .No.16344 OF 2020

PETITIONER:

FEBIN MARINE FOODS
ERAMALLOOR, CHERTHALA, ALAPPUZHA-688537.
REPRESENTED BY ITS PARTNER F.M.FAROOK.

BY ADV. SRI.V.DEVANANDA NARASIMHAM

RESPONDENTS:

- 1 ASSISTANT STATE TAX OFFICER
INTELLIGENCE SQUAD NO.2, STATE GOODS AND SERVICE TAX
DEPARTMENT, ERANAKULAM-682015.
- 2 STATE TAX OFFICER,
INTELLIGENCE SQUAD NO.2,
STATE GOODS AND SERVICE TAX DEPARTMENT, ERANAKULAM-682015.
- 3 STATE OF KERALA,
STATE GOODS AND SERVICE TAX DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695001,
REPRESENTED BY SECRETARY TO GOVERNMENT.
- 4 COMMISSIONER OF GOODS AND SERVICES TAX,
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE, CENTRAL BOARD OF INDIRECT TAXES AND
CUSTOMS, GST POLICY WING, NEW DELHI-110001.

BY GOVERNMENT PLEADER SRI.PAUL ABRAHAM VAKKANAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.08.2020,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner has approached this Court challenging the detention notice issued to him (Ext.P4) under Section 129 of the GST Act. On a perusal of the detention notice, I find that the objection of the respondents was essentially with regard to the transportation of the goods having been covered by two e-way bills, when there was only one invoice covering the transportation. It is also stated that the mode of transportation shown as per the e-way bills was through a road, whereas the goods were intercepted at the Ernakulam South Railway Station. On a consideration of the reasons shown in Ext.P4, I am of the *prima facie* view that the detention cannot be said to be unjustified.

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

The learned counsel for the petitioner seeks permission to clear the goods on furnishing of a bank guarantee to cover the amounts demanded in Ext.P4. Taking note of the said submission, I dispose the writ petition by directing the 1st respondent to permit the petitioner to clear the goods and the vehicle on furnishing a bank guarantee for the

amount demanded in Ext.P4. Thereafter, the 1st respondent shall forward the files to the adjudicating authority for an adjudication of the dispute under Section 130 of the GST Act, which adjudication shall be completed only after hearing the petitioner, within a period of one month from the date of the files being forwarded to the 2nd respondent. The petitioner shall produce a copy of this judgment together with a copy of the writ petition before the 1st respondent for further action.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

APPENDIX

PETITIONERS EXHIBITS

EXHIBIT -P1 TRUE COPY OF TAX INVOICE NO.SAPPL/20-21/0708 DATED 24.07-20 RAISED BY M/S.SRI.AUROBINDO PACKAGERS PVT.LTD, THIRUVALLUR, TAMIL NADU AGAINST THE SALE OF PRINTED AND LAMINATED POUCHES COLLECTING IGST @ OF 18% DISPATCHED THROUGH SOUTHERN RAILWAY, CHENNAI TO ERNAKULAM.

EXHIBIT P2- TRUE COPY OF E-WAY BILL NO.521191139048 DATED 24.07.2020 GENERATED AT 11-51 AM BY THE CONSIGNOR AGAINST EXT.P1 TAX INVOICE STATING MODE OF TRANSPORT THROUGH ROAD, THE GOODS WERE TRANSPORTED FROM THE PLACE OF BUSINESS TO RAILWAY STATION BY USING THEIR OWN VEHICLE

EXHIBIT P3- TRUE COPY OF E-WAY BILL NO.521191559895 DATED 27.07.2020 AGAINST EXT.P1 TAX INVOICE WAS GENERATED BY THE PETITIONER TO TRANSPORT IMPUGNED GOODS FROM ERNAKULAM RAILWAY STATION TO ERAMALLOOR ON RELEASING GOODS FROM RAILWAY VIDE RECEIPT A1258330 DATED 24.07.2020

EXHIBIT P4 TRUE COPY OF NOTICES IN MOV-02 DATED 27.07.20, MOV-04, MOV-06 AND MOV-07 DATED 28.07.2020 ISSUED BY 1ST RESPONDENT, DEMANDING TAX AND PENALTY U/S 20 OF THE IGST ACT 2017 ALLEGING THAT THERE WERE TOW E-WAY BILLS GENERATED FOR THE SAME INVOICE AND THE GOODS WERE MOVED THROUGH RAILWAY INSTEAD OF ROAD AS STATED IN EXT.P2 E-WAY BILL

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE