IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 05TH DAY OF FEBRUARY 2020 / 16TH MAGHA, 1941

WP(C).No.2999 OF 2020(Y)

PETITIONER/S:

C.P.MUHAMMED ANSARI
AGED 46 YEARS
S/O.K.A.ABDUL AZEEZ HAJI, PROPRIETOR M/S. FORTUNE ASSOCIATES, PANAMKAVU.P.O, CHIRAKKAL, KANNUR-670011

BY ADV. SRI.C.K.SREEJITH

RESPONDENT/S:

1 THE ASSISTANT STATE TAX OFFICER
STATE GOODS AND SERVICES DEPARTMENT, SQUARD NO.IV, KOLLAM, PUNALUR-691305

2 STATE TAX OFFICER
STATE GOODS AND SERVICES DEPARTMENT, SQUAD NO.IV, KOLLAM, PUNALUR-691305

3 THE COMMISSIONER
STATE GOODS AND SERVICE TAX DEPARTMENT, GOVT. OF KERALA, TRIVANDRUM-695001

4 STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM-695001

OTHER PRESENT:

SMT.M.M.JASMINE, GOVT.PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05.02.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ALEXANDER THOMAS, J.
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W.P.(C.) No. 2999 of 2020
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Dated this the 5th day of January, 2020

JUDGMENT

The facts set up in this W.P.(C.) are as follows :

That the petitioner is an importer and exporter. The petitioner purchased imported raw cashew from MAC world Industries RHD-3-11 Block B, Philed Damansara, Malaysia. Vide Ext.P1 has paid IGST of Rs.630769/- It is submitted that the original importer was M/s. St.Mary's Cashew Factory, Puthoor, Kollam. The goods were transported to Ernakulam at the Branch Officer of the petitioner concerned. While so, the dealer called M/s. St.Mary's Cashew Factory has agreed to purchase the goods after taking samples. Hence the vehicle was de-routed to Puthoor, Kollam. While so, the 1st respondent intercepted the vehicle and goods and notice u/s.129(1) of GST Act. As per the notice demanding a security amount of Rs.1,07,719/-. It is submitted that there was no attempt of tax evasion. The goods were de-routed to Kollam as there was enquiry from M/s.St.Mary's Cashew Factory at Kollam. The petitioner has already paid IGST to the tune of Rs.630769/-. It is also submitted that allegations are absolutely false. Hence the petitioner wanted to release the goods without insisting security deposit. The demand is highly illegal, hence liable to be interfered.

2. In the light of these averments and contentions, the petitioner has filed the instant W.P.(C.) with the following prayers :

> *(i) "Issue writ of mandamus or such other writ or direction directing the 1st respondent to release the goods and vehicle without insisting security deposit.*
> *(ii) Issue any other relief that this Hon'ble High Court may deem fit to grant in the facts and circumstances of the case."*

3. Heard Sri.C.K.Sreejith, learned counsel appearing for the petitioner and Smt. M.M.Jasmine, learned Government Pleader appearing for the respondents.

4. After hearing both sides and taking note of the facts and circumstances of this case as disclosed from the pleadings and materials on record, it is ordered that the goods and vehicle detained pursuant to Ext.P3 detention order shall be released by the 1st respondent to the petitioner on the petitioner furnishing bank guarantee for the value of the amounts shown in Ext.P3 order. Thereafter, the 1st respondent may finalise the adjudication proceedings pursuant to the impugned Ext.P3 detention order, after affording reasonable opportunity of being heard to the petitioner, through the counsel, if any and orders may be passed finalising the said proceedings, without much delay, preferably within a period of 4-6 weeks from the date of production of the certified copy of this judgment.

With these observations and directions, the above W.P.(C.) will stand disposed of.

Sd/-

ALEXANDER THOMAS,
JUDGE

SKS

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	THE TRUE COPY OF THE BILL OF ENTRY FOR HOME CONSUMPTION, CUSTOM HOUSE, TUTICORIN DT.31.1.2020
EXHIBIT P2	THE TRUE COPY OF THE AGREEMENT ON HIGH SEA SALES DT.15.1.2020
EXHIBIT P3	THE TRUE COPY OF THE FORM GST MOV-01 DT.31/1/2020
EXHIBIT P4	THE TRUE COPY OF THE FORM GST MOV-02 DT.31/1/2020
EXHIBIT P5	THE TRUE COPY OF THE FORM GST MOV-04 DT.31/1/2020
EXHIBIT P6	THE TRUE COPY OF THE FORM GST MOV-06 DT.31/1/2020
EXHIBIT P7	THE TRUE COPY OF THE FORM GST MOV-07 DT.31/1/2020
EXHIBIT P8	THE TRUE COPY OF THE E-WAY BILL