IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 28TH DAY OF NOVEMBER 2019/7TH AGRAHAYANA, 1941

W.P(C).No.32348 OF 2019

PETITIONER:

HAIER APPLIANCES INDIA PVT. LTD. (COCHIN)
COCHIN SALES OFFICE, 2ND FLOOR, ATS GRAND, BUILDING NO.34/545-C5 AND 34/545-C6, N H BYE PASS, PADIVATTOM, ERNAKULAM, COCHIN-682024, REPRESENTED BY AJITH KUMAR, BRANCH COMMERCIAL MANAGER.

BY ADV. SMT.BLOSSOM MATHEW

RESPONDENTS:

1 THE ASSISTANT STATE TAX OFFICER
STATE GOODS AND SERVICE TAX DEPARTMENT, SQUAD NO.VIII, COMMERCIAL TAXES COMPLEX, PERUMANOOR P.O., ERNAKULAM - 682 015.

2 THE DEPUTY COMMISSIONER OF STATE TAX,
COMMERCIAL TAXES COMPLEX, PERUMANOOR P.O., ERNAKULAM - 682 015.

3 THE ASSISTANT COMMISSIONER III,
STATE GOODS AND SERVICE TAX DEPARTMENT, COMMERCIAL TAXES COMPLEX, PERUMANOOR P.O., ERNAKULAM - 682 015.

BY SMT.THUSHARA JAMES, GOVT. PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28.11.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

The challenge in the writ petition is to Exts.P8 and P11 detention notices issued to the petitioner detaining goods that were transported at the instance of the petitioner. A perusal of Exts.P8 and P11 notices would indicate that the goods belonging to the petitioner, and covered by Exts.P1 and P1(a) invoices, were detained for an alleged discrepancy noticed in respect of the E-way bill raised in connection with Ext.P1 invoice. I note however that the discrepancy noticed is with regard to the value of the commodity as shown in Ext.P1 invoice, which is Rs.25.60, whereas in the E-way bill, it was shown as Rs.25.66. It is also the case of the detaining authority that the commodity in question was undervalued by the vendor by offering excessive discounts to the purchaser.

2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for

the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that the reasons shown in Exts.P8 and P11 notices, that are impugned in this writ petition, are not sufficient for the purposes of detaining the goods in terms of Section 129 of the CGST/SGST Act. Accordingly, I direct the 1st respondent to forthwith release the goods and the vehicle to the petitioner on the petitioner producing a copy of this judgment before the said respondent. The 1st respondent shall thereafter forward the files for adjudication to the adjudicating authority.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/28/11/19

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE INVOICE NO.5063022748 DATED 29.10.2019 OF HAIER APPLIANCES INDIA PVT. LTD.

EXT.P1(A): COPY OF THE INVOICE NO.5063022749 DATED 29.10.2019 OF HAIER APPLIANCES INDIA PVT. LTD.

EXT.P2: COPY OF THE E-WAY BILL 5911 4378 6215 DATED 29.10.2019.

EXT.P2(A): COPY OF THE E-WAY BILL 5911 4378 4983 DATED 29.10.2019.

EXT.P3: COPY OF FORM GST MOV-01 NO.GST/VIII/19/2019-20 STATEMENT OF THE OWNER/DRIVER/PERSON IN CHARGE OF THE GOODS AND CONVEYANCE DATED 29.10.2019.

EXT.P4: COPY OF FORM GST MOV-02 ORDER FOR PHYSICAL VERIFICATION/INSPECTION OF THE CONVEYANCE, GOODS AND DOCUMENTS DATED 29.10.2019.

EXT.P5: COPY OF THE LETTER DATED 01.11.2019, SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.

EXT.P6: COPY OF THE FORM GST MOV – 06 DETENTION ORDER RECEIVED ON 11.11.2019.

EXT.P7: COPY OF FORM GST MOV 04 RECEIVED ON 11.11.2019.

EXT.P8: COPY OF FORM GST MOV 07 RECEIVED ON 11.11.2019.

EXT.P9: COPY OF THE STATEMENT SUBMITTED BY THE PETITIONER DATED 12.11.2019.

EXT.P10: COPY OF THE SCHEME COMMUNICATION LETTER DATED 01.07.2019.

EXT.P11: COPY OF FORM GST MOV 09 - ORDER OF DEMAND OF TAX AND PENALTY RECEIVED ON 13.11.2019.

EXT.P12: COPY OF CIRCULAR NO.92/11/2019-GST ISSUED BY THE DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA DTD. 7.3.19.

EXT.P13: COPY OF EXTRACT OF SCHEDULE I OF GST ACT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE