

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 12TH DAY OF NOVEMBER 2019 / 21ST KARTHIKA, 1941

WP(C).No.30423 OF 2019(C)

PETITIONER:

SHAMEER CHINGANAM POYIL  
AGED 27 YEARS  
C.P.SONS, 08/353, KANNOOTI PARA,  
KORANGHADROAD, CHINGHNAPOYI,  
KOZHIKODE, KERALA, 673573,  
REPRESENTED BY ITS PROPRIETOR SHAMEER.

BY ADVS.  
SMT.M.K.HAJARA  
SRI.C.RAMACHANDRAN

RESPONDENTS:

- 1 ASST. STATE TAX OFFICER,  
SURVEILLANCE SQUAD NO.111,  
SGST DEPARTMENT, WAYANAD AT VADUVANCHAL-673581.
- 2 STATE TAX OFFICER,  
SURVEILLANCE SQUAD NO.111,  
SGST DEPARTMENT, WAYANAD AT VADUVANCHAL-673581,
- 3 THE COMMISSIONER OF STATE TAX,  
STATE GOODS AND SERVICE TAXES,  
TAX TOWER, KILLIPPALAM, KARAMANA P O,  
THIRUVANANTHAPURAM-695002.

BY ADV.

SMT.THUSHARA JAMES GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
12.11.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **J U D G M E N T**

The challenge in the writ petition is against Ext.P4 detention order served on the petitioner, detaining a consignment of goods that was being transported at the instance of the petitioner. The reason shown in Ext.P4 order for the detention is that, at the time of detention of the vehicle, the original invoice was not produced by the driver of the vehicle. It is stated that the original of the invoice was shown to the check post authorities in the electronic format, and therefore, there was no justification for the detention.

2. The learned Government Pleader would submit, on instructions, that in terms of Rule 138A of the SGST Rules, the transporter of the goods is obliged to produce a copy of the invoice and a copy of the e-way bill. While the latter document can be produced either as a document or in electronic format, the invoice has necessarily to be produced in documentary format. In the instant case, it is stated that the invoice was not produced, and this was why the goods were detained.

3. On a consideration of the rival submissions, I find force in

the submission of the learned Government Pleader that the absence of an invoice can be a valid ground for detention under Section 129 of the GST Act. Accordingly, I find that the detention in Ext.P4 order is justified. However, taking note of the plea of the learned counsel for the petitioner, I direct that if the petitioner furnishes the bank guarantee for the tax and penalty amount determined in Ext.P4, then the respondent shall release the consignment and the vehicle to the petitioner, and thereafter proceed for adjudication in terms of Section 138 of GST Act, after hearing the petitioner.

The writ petition is disposed as above.

Sd/-

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

