IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 08TH DAY OF NOVEMBER 2019 / 17TH KARTHIKA, 1941

WP(C).No.30102 OF 2019(K)

PETITIONER/S:

RELCON FOUNDATIONS (P) LTD.
50/309,MANIMALA ROAD, EDAPPALLY, KOCHI
KERALA-682 024, REPRESENTED BY ITS MANAGING DIRECTOR,
T.K.ALEXANDER VAIDIAN

BY ADV. SRI.RAMESH CHERIAN JOHN

RESPONDENT/S:

1 THE ASSISTANT STATE TAX OFFICER
SQUAD NO.II,KERALA GST DEPARTMENT, KASARAGOD-671 315

2 THE ASSISTANT COMMISSIONER,
OFFICE OF THE STATE TAX OFFICER, WORKS CONTRACT,
STATE GOODS AND SERVICE TAX DEPARTMENT, CLASS TOWER,
KARGIL LANE, OLD RAILWAY STATION ROAD
ERAKULAM-682 018

3 THE COMMISSIONER,
STATE GOODS AND SERVICE TAX DEPARTMENT
TAX TOWER, KILLIPALAM, KARAMANA P.O.
THIRUVANANTHAPURAM-695 002

GOVERNMENT PLEADER DR.THUSHARA JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08.11.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Challenge in the writ petition is against Ext.P1 order and Ext.P4 notice proposing confiscation of the goods belonging to the petitioner that were detained while in transit. A perusal of Ext.P1 order would indicate that the detention of the vehicle carrying the goods was on the ground that the GSTR 3B returns had not been filed from June 2018 and GSTR I had not been filed from March 2019. It is submitted by the learned counsel for the petitioner that the said grounds cannot be justified for detention of the vehicle under Section 129 of the KGST Act.

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

On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find force in the contention of the learned counsel for the petitioner that the reasons stated in Ext.P1 order cannot be a justification for detaining the goods in terms of Section 129 of the KGST Act. Similarly, the said ground cannot form the basis of Ext.P4 notice proposing confiscation of the goods detained inasmuch as the ingredients of the offence covered by Section 130 are not satisfied in the instant case. I, therefore, dispose the writ petition by quashing Exts.P1 and P4 and directing the 1st respondent to forthwith release the goods and the vehicle to the petitioner on the petitioner producing a copy of the judgment before the said respondent. I make it clear that nothing in this judgment will prevent the respondents from initiating any penal action against the goods, if warranted, by following the procedure under the GST Act.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**A TRUE COPY OF THE ORDER FOR PHYSICAL VERIFICATION N GST MOV-02 ISSUED ON 28.10.2019**
EXHIBIT P2	**A TRUE COPY OF HE E-WAY BILL GENERATED BY THE PETITIONER DT 26.102019 VALID UP TILL 06.11.2019**
EXHIBIT P3	**A TRUE COPY OF THE DELIVERY CHALLAN DT 26.10.2019**
EXHIBIT P4	**A TRUE COPY OF THE NOTICE OR CONFISCATION OF GOODS FOR CONVENIENCE IN FORM GST MOV-10 DT 30.10.2019 WITH PROPOSED CALCULATION OF TAX AND PENALTY**

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