

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 29TH DAY OF OCTOBER 2019 / 7TH KARTHIKA, 1941

WP(C).No.28573 OF 2019(V)

PETITIONER/S:

UNITAC ENERGY SOLUTIONS (I) PVT.LTD
BUILDING NO. 52/3274-B, 2ND FLOOR, UNITAC ARCADE,
N.H.BYPASS, THYKODAM, VYTTILA, COCHIN - 682 019,
REPRESENTED BY MANISH S PRABHAKARAN, SECRETARY

BY ADV. SMT.BLOSSOM MATHEW

RESPONDENT/S:

- 1 THE ASSISTANT STATE TAX OFFICER
MOBILE SQUAD NO.5, STATE GOODS AND SERVICE TAX
DEPARTMENT, KOLLAM - 691 002
- 2 THE DEPUTY COMMISSIONER OF STATE TAX
BAPPUJI NAGAR, ASRAMOM, KOLLAM - 691 002
- 3 THE ASSISTANT COMMISSIONER (WC)
STATE GOODS AND SERVICE TAX DEPARTMENT
CLASS TOWER, OLD RAILWAY STATION ROAD
ERNAKULAM, COCHIN - 682 018

GOVERNMENT PLEADER DR.THUSHARA JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29.10.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is aggrieved by the alleged unlawful seizure and detention of a consignment of goods by the 1st respondent. Ext.P3 is the detention notice issued by the 1st respondent while detaining the said consignment of goods carried on the vehicle bearing Registration No.KL-22D-2424. The reason for detention is stated to be that the consignee, the petitioner herein, was a return defaulter for the last five months. It is the contention of the learned counsel for the petitioner that as per the provisions of Section 129 of the CGST Act, the reason shown in the detention notice cannot be a ground for detaining a consignment of goods in the course of transit.

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

3. 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 in terms of Section 129 of the CGST Act, the reason shown by the respondents in Ext.P3 detention notice is not one that can justify a detention. Accordingly, I quash Ext.P3 detention notice and direct the respondents to release the consignment covered by Ext.P3 notice to the petitioner forthwith on the petitioner producing a copy of of this judgment before the respondents.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sd

APPENDIX**PETITIONER'S/S EXHIBITS:**

EXHIBIT P1	TRUE COPY OF THE INVOICE NO. MH2718110138 DATED 30.09.2019 OF PETRONAS (LUBRICANTS) INDIA PVT.LTD.
EXHIBIT P2	TRUE COPY OF THE E WAY BILL NO.2111 4589 1602
EXHIBIT P3	TRUE COPY OF THE FORMGSTMOV-01 AND MOV-02 DATED 21.10.2019 ISSUED BY THE 1ST RESPONDENT
EXHIBIT P4	TRUE COPY OF THE NOTIFICATION NO. 74/2018- CENTRAL TAX DATED 21.12.2018
EXHIBIT P5	TRUE COPY OF NOTIFICATION NO. 36/19 DATED 20.08.2019

sd