

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

FRIDAY, THE 14TH DAY OF JUNE 2019 / 24TH JYAISHTA, 1941

WP(C).No.16322 of 2019

PETITIONER:

M/S.CEAT LIMITED
C/O. SOUTHERN AGENCIES, THEKKAN ARCADE, III/219
B3, NEAR MARANKULANGARA TEMPLE, EROOR NORTH
P.O, THIRIPUNITHURA, KOCHI 683506, REPRESENTED
BY ITS REGIONAL COMMERCIAL EXECUTIVE , SRI. P G
SAHADEVAN

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENTS:

- 1 ASSISTANT STATE TAX OFFICER
STATE GOODS AND SERVICE TAX DEPARTMENT, SQUAD
NO. IV, ASRAMAM ,KOLLAM 691 002
- 2 STATE TAX OFFICER,
STATE GOODS AND SERVICE TAX DEPARTMENT, SQUAD
NO. IV, ASRAMAM, , KOLLAM 691 002
- 3 STATE OF KERALA,
STATE GOODS AND SERVICE TAX DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM 695 001
REPRESENTED BY SECRETARY TO GOVERNMENT.
- 4 COMMISSIONER (GST)
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE, CENTRAL BOARD OF
INDIRECT TAXES AND CUSTOMS, NEW DELHI 110 001

OTHER PRESENT:

GP. SMT. M.M. JASMIN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
14.06.2019, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

The petitioner prays for the following reliefs:

- “i) to call the records from 1st respondent leading to issuance of Ext.P6 notice and to issue a writ in the nature of certiorari or any other appropriate writ or order quashing Exhibit P6 notice issued by 1st respondent U/s.129 of the Kerala GST Act 2017;
- ii) to issue a writ in the nature of mandamus or any other appropriate writ or order, directing 2nd respondent to conduct proper adjudication after considering the clerical mistake in Ext P4 and P4(a) e-way bills available at the time of interception;
- iii) to issue a writ in the nature of mandamus or any other appropriate writ or order, directing 1st respondent to release the goods on accepting bank guarantee and security for immediate release of goods along with transport vehicle; and
- iv) to pass such other orders as this Hon'ble Court may deem justified in the facts and circumstances of the case.”

2. The prayers though challenge the legality of Exts.P6 proceedings under Section 129 of the Kerala GST Act 2017, the learned Counsel for the petitioner for the present does not press those contentions. However, seeks liberty to

secure release of subject goods on condition that the petitioner furnishes Bank Guarantee for the amount determined by the respondents in this behalf. The issue is substantially pending before the respondents. This Court is not persuaded to entertain the writ petition at this stage. However, keeping in view the submission made by Mr.Thomson T. Emmanuel, the writ petition is disposed of by this order:

3. The respondents release the goods detained as per proceedings in Exts.P5 and P6 subject to the petitioner furnishing Bank Guarantee for the amount determined by the respondents in this behalf and also that the Bank Guarantee is kept alive during the pendency of the proceedings under Section 129. The proceedings are disposed of as expeditiously as possible, preferably within two months from the date of receipt of copy of this order. It is needless to observe that while adjudicating the matter under section 129 the e-way bills

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produced by the petitioner, now shown as Exts.P4 and P4(a), are also considered by the second respondent and appropriate orders are passed.

SD/-

S . V . BHATTI

JUDGE

SJ

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 COPY OF REGISTRATION CERTIFICATE NO.32AACC164CC1645G1Z8 DATED 22-08-2018 ISSUED TO PETITIONER UNDER GST ACT, WITH 15 PLACE OF BUSINESS, WHICH INCLUDES KOTTAYAM AND PALLINADA IN ERNAKULAM DISTRICT.
- EXHIBIT P2 COPY OF REGISTRATION CERTIFICATE NO. 32ACOPG2218C1Z8 DATED 20-06-2018 ISSUED TO M/S. MEENAKSHI TRADERS, THIRUVANANTHAPURAM UNDER GST ACT WITH 12 PLACE TO BUDINESS, WHICH INCLUDES T D ROAD, COCHIN 682 035 IN ERNAKULAM DISTRICT AND THIRUVANANTHAPURAM.
- EXHIBIT P3 COPY OF TAX INVOICE NO. 9305703415 DATD 07-06-2019 AFFIXED WITH DISPATCHED ON 08-06-2019 TO M/S. MEENAKSHI TRADERS, THIRUVANANTHAPURAM, AFTER LEVYING CGST AND SGST @ 14%
- EXHIBIT P3 A COPY OF TAX INVOICE NO. 9305703469 DATED 08-06-2019 RAISED ON M/S. MEENAKSHI TRADERS, THIRUVANANTHAPURAM, AFTER LEVYING CGST AND SGST @ 14%
- EXHIBIT P4 COPY OF E-WAY BILL NO. 511112172821 DATED 08-06-2019 GENERATED AT 9.28 PM PURSUANT TO EXT P3 TAX INVOICE.
- EXHIBIT P4 A COPY OF E-WAY BILL NO. 561059394918 DATED 06-10-2018 GENERATED ON THE BAIS OF EXT.P1(A) TAX INVOICE HANDED OVER TO TRANSPORTER.
- EXHIBIT P5 COPY OF PHYSICAL VERIFICATION REPORT IN FORM NO. MOV-O4 DATED 10-06-2019 CONDUCTED BY 1ST RESPONDENT AND WHICH WAS ISSUED ON 12-06-2019

EXHIBIT P6

COPY OF NOTICE NO. SCNO4/SSIV/2019-20 DATED 10-06-2019 ISSUED U/S. 129(3) OF SGST ACT, DEMANDING SGST, CGST AND PENALTY, ALLEGING EXPIRY OF EXT P4 AND P4(A) E-WAY BILLS ON 10-06-2019 AND IN DEVIATION IN ROUTE, ISSUED ON 12-06-2019 ALONG WITH EXT.P5

EXHIBIT P7

COPY OF JUDGMENT DATED 17-10-2018 PASSED IN WP(C) NO. 34121 OF 2018 BY THIS HON'BLE COURT ON SIMILAR SET OF FACTS, ON CHALLENGE OF DETENTION UNDER GST ACT.