

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY ,THE 15TH DAY OF NOVEMBER 2018 / 24TH KARTHIKA, 1940

WP(C).No. 8186 of 2018

PETITIONER/S:

SHRI.A.BALASUBRAMANIAN
AGED 46 YEARS
PROPRIETOR, M/S. THAL COIRCOPRA, COCONUT, COCONUT OIL
COMMISSION AGENT, 3/268-1, DEVANAMPALAYAM (P.O) POLLACHI
642 120COIMBATORE DISTRICT, TAMIL NADU STATE

BY ADVS.
SRI.T.M.SREEDHARAN (SR.)
SRI.V.P.NARAYANAN

RESPONDENT/S:

- 1 THE ASSISTANT STATE TAX OFFICER
SQUAD NO.1, STATE GST DEPARTMENT, PALAKKAD 678 001
- 2 MS. NAMASCO TRADERS & EXPORTS
PACHA POIKA
KUTHUPARAMBA 670 643

SMT.M.M.JASMINE, GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15.11.2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, a businessman in Tamilnadu, is the consignor of goods sent across to Kerala. On 7.3.2018 the Assistant State Tax Officer, Palakkad, detained the goods on these two grounds.

- i. GSTIN of the recipient is incorrect, which is in violation of Rule 46 of the CGST Rules, 2017 r/w section 31 of CGST Act, 2017;
- ii. No e-way Bill/e-declaration has accompanied the transport.

2. When the petitioner filed this writ petition, the Court, through an interim order dated 9.3.2018, allowed the petitioner to get the detained goods released on its furnishing bank guarantee for the amount covered by Ext.P2. The petitioner did that.

3. Now the petitioner's counsel wants to have this writ petition disposed of with a direction to the Assistant State Tax officer to conclude the pending proceedings under Section 129 of the CGST Act, expeditiously. He, nevertheless, insists that neither ground is tenable.

4. To elaborate, the learned counsel draws my attention to Ext.P1(a) and submits that the GSTIN number has been correctly mentioned. But the officer has read it mistakenly. On the second objection, he submits that by the time the petitioner transported the consignment, the official machinery was not ready to let the businessman generate an e-way bill.

5. As the Assistant State Tax Officer has already taken up the issue, it is inappropriate for this Court to observe anything on the merits. I nevertheless hold that the officer will take into account the petitioner's plea as recorded above while he considers the petitioner's request under Section 129 of the CGST Act. With these observations I dispose of this writ petition.

sd/-

DAMA SESHADRI NAIDU
JUDGE

okb

//True copy// P.A. to Judge

APPENDIX

PETITIONER'S/S EXHIBITS:

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| EXHIBIT P1 | TRUE COPY OF THE INVOICE NO. 006 DATED 06-03-2018 OF THE PETITIONER FIRM |
| EXHIBIT P1(A) | TRUE COPY OF THE CERTIFICATE OF PROVISIONAL REGISTRATION DATED 28-06-2017 ISSUED BY THE SALES TAX AUTHORITIES |
| EXHIBIT P2 | TRUE COPY OF THE NOTICE NO.VC/1/GST/66/17-18 DATED 7-3-2018 ISSUED BY THE 1ST RESPONDENT |