

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 31ST DAY OF OCTOBER 2018 / 9TH KARTHIKA,
1940

WP(C).No. 34874 of 2018

PETITIONER/S:

SABITHA RIYAZ, AGED 41 YEARS
WIFE OF RIYAZ, PROPRIETOR, KERALA TRADING
SYNDICATE, CALTEX HOUSE, NEAR KMA HALL,
KANJIRAPALLY P.O., KOTTAYA, KERALA 686507.

BY ADVS.
DR.K.P.PRADEEP
SMT.NEENA ARIMBOOR
SMT.RANI MUMTHAS
SRI.SANAND RAMAKRISHNAN
SMT.ANJANA KANNATH
SRI.T.T.BIJU

RESPONDENT/S:

- 1 THE UNION OF INDIA
REPRESENTED BY THE SECRETARY (REVENUE),
MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI-
110001.
- 2 THE PRINCIPAL SECRETARY
FINANCE (GST WING), FINANCE (REV-1) DEPARTMENT,
4TH LEVEL, A-WING, DELHI SECRETARIAT,
I.P.ESTATE, NEW DELHI-110002.
- 3 GOODS AND SERVICE TAX COUNCIL,
THROUGH ITS CHAIRPERSON, DEPARTMENT OF
FINANCE, NORTH BLOCK, NEW DELHI-110001.

- 4 GOOD AND SERVICE TAX NETWORK,
THROUGH ITS CHAIRMAN, EAST WING, 4TH FLOOR,
WORLD MARK-1, AEROCITY, NEW DELHI-110037.
- 5 CHIEF COMMISSIONER OF CENTRAL TAXES
CENTRAL GST OFFICE, CENTRAL REVENUE BUILDING
IS PRESS ROAD, KOCHI-682018, KERALA.
- 6 THE DEPUTY COMMISSIONER/
NODAL OFFICER, OFFICE OF THE COMMISSIONER OF
CENTRAL GST CENTRAL EXCISE , GST BHAVAN,
PRESS CLUB ROAD, THIRUVANANTHAPURAM, KERALA-
695001.
- 7 THE CENTRAL TAX OFFICER,
CENTRAL GST DEPARTMENT, MUNDAKKAYAM RANGE 2ND
FLOOR, POPSONS BUILDING, K.K.ROAD,
MUNDAKKAYAM-686515.
- 8 THE CHIEF COMMISSIONER
CENTRAL TAXES CUSTOMS,
CENTRAL EXCISE SERVICE TAX MEERUT ZONE,
OPPOSITE CCS UNIVERSITY, MANGALA PANDEY
NAGAR, MEERUT-UTTARPRADESH 250004.
- 9 THE COMMISSIONER OF STATE GST
KERALA STATE GOODS AND SERVICE TAX
DEPARTMENT, TAX TOWERS, KARAMANA,
THIRUVANANTHAPURAM, KERALA-695001.
- 10 STATE OF KERALA
REPRESENTED BY ITS SECRETARY(TAXES) ,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, KERALA-695001.
- 11 ADDL.R11. THE STATE TAX OFFICER/
RAJYA KAR ADHIKARI
COMMERCIAL TAX DEPARTMENT, GOVERNMENT OF
UTTARAKHAND, SACHALDAL A- FLYING SQUAD,
RUDRAPUR, UTTARAKHAND - 263153. (ADDL.R11 IS
IMPLEADED AS PER ORDER DATED 26.10.2018
IN IA 1/2018.)

BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR
GENERAL

OTHER PRESENT:

SC SRI. SREELAL WARRIER. CGC. SRI. JAISHANKER
V. NAIR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31.10.2018, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

The petitioner, a trader, transported natural rubber. After generating e-way bill, she sent a consignment to Uttarakhand, with all the relevant records. But it was seized by the State Tax Officer, Uttarakhand, the additional 11th respondent. The ground for detention is that in the e-way bill the distance between Kerala and the destination at Uttarakhand was shown as 280 Kms, instead of 2800 Kms. To have this evident error corrected, the petitioner could have taken recourse to Rule 138(9) of the CGST Rules. That correction, however, could be possible only within 24 hours.

2. The petitioner's counsel submits that this is a typographical error. And the petitioner noticed it only when the 11th respondent intercepted the goods and inspected the documents.

According to the learned counsel, the 7th respondent, the authority concerned in Kerala, could either permit the petitioner to generate a new e-way bill or certify that the error is clerical. In reply, the Standing Counsel submits that since the entire system is online, the 7th respondent could not correct the error, at this stage. He also submits that there is no provision in the Rules for such correction, either.

3. That apart, the learned Standing Counsel submits that a certificate, as sought by the petitioner from the 7th respondent, is also not possible because the Authority has no such power conferred on him. At any rate, he too felt that the mistake is genuine, evident, and needs correction, in the interest of justice.

4. This Court intended to serve a notice on the 11th respondent, stationed at Uttarakhand and then rule on the issue.

5. The petitioner's counsel, however, submits that the produce being transported is natural rubber and it has been in detention for the past ten days. As its shelf life is very short, any further delay in the matter will render the whole consignment worthless. Nevertheless, he insists that if this Court observes that the

error in e-way bill is minor apart from being typographical, then it stands covered and exempted under the Circular No.64/38/2018-GST, dated 14th September 2018.

6. Indeed, the Central Board of Indirect Taxes and Customs has come across many minor discrepancies in the e-way bills, resulting in summary detention of the goods. Then, it has issued this circular.

I reckon the distance between Kerala and Uttarakhand is a matter of record and thus verifiable. As I have already noted, the e-way bill showed the distance as 280 Kms, instead of 2800 Kms—one zero missing. This cannot be anything other than a typographical error, and a minor at that.

Under these circumstances, I hold that the 11th respondent will consider the petitioner's request for release in terms of the circular, expeditiously. With these observations, I dispose of the writ petition.

Sd/-

DAMA SESHADRI NAIDU

JUDGE

das

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE REGISTRATION CERTIFICATE NO.32APKPR1320MIZW ISSUED TO THE PETITIONER.
EXHIBIT P2	TRUE COPY OF THE INVOICE NO.204 DATED 15/10/2018 ISSUED BY THE PETITIONER.
EXHIBIT P3	TRUE COPY OF THE E-WAY BILL NO.551061181040 DATED 15/10/2018 GENERATED BY THE PETITIONER WITH RESPECT TO EXT P2 INVOICE.
EXHIBIT P4	TRUE COPY OF THE REQUEST DATED 23/10/2018 SUBMITTED TO THE 7TH RESPONDENT.