

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 19TH DAY OF SEPTEMBER 2018 / 28TH BHADRA, 1940

WP(C).No. 30729 of 2018

PETITIONER/S:

M/S PANEL SOURCE LLP,  
UNIT NO 5, UNIQUE INDUSTRIAL PREMISES, VEER SAVARKER  
ROAD, PRABHA DEVI, MUMBAI, REPRESENTED BY ITS PARTNER  
SUJEET S SHETTY

BY ADVS.  
SRI.S.ANIL KUMAR (TRIVANDRUM)  
RAJAGOPAL M

RESPONDENT/S:

- 1 THE ASSISTANT STATE TAX OFFICER,  
SQUAD NO V, STATE GOODS AND SERVICES TAX DEPARTMENT,  
KASARAGOD, 671121
- 2 THE STATE TAX OFFICER  
SQUAD NO.V, STAGE GOODS AND SERVICES TAX DEPARTMENT,  
KASARAGOD-671121.
- 3 THE STATE OF KERALA  
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT  
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM-695001.
- 4 UNION OF INDIA  
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE,  
MINISTRY OF FINANCE, ROOM NO.46, NORTH BLOCK, NEW  
DELHI-110001.

OTHER PRESENT:

N NAGARESH ASGI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
19.09.2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, a dealer, faced detention proceedings under Section 129

of the Goods and Services Tax Act. After failing to secure interim release of the goods, it has filed this writ petition seeking the following reliefs :

- i) declare Rule 140 of the CGST/SCST Rules, to the extent to which it directs collection of security in the form of simple bond for the value of goods and bank guarantee equivalent to the amount of applicable tax, interest and penalty payable as a mandatory condition for the release of the goods detained under section 129(3) of the Act as violative of Article 301 of the Constitution ;
- ii) issue a writ of certiorari or any other appropriate writ, order or direction as this Court deems fit and proper in the circumstances of the case, calling for the records leading to the issue of Ext.P7 order and Ext.P7(a) notice and after scrutinizing the same, to strike down and quash them ;
- iii) issue a writ of mandamus or other appropriate writ, orders or directions directing the respondent to refrain from proceedings further under section 129 of the Act based on Ext.P7 and Ext.P7(a) ;
- iv) issue a writ of mandamus or other appropriate writ, orders or directions, directing the respondent to release the goods to the petitioner without collecting any security under S.129(1)(c) ;
- v) issue such other writ, order or direction which this Court deems fit and necessary in the interest of justice.

Nevertheless, the issue raised in this writ petition stands squarely covered by judgment dated 9<sup>th</sup> August 2018 in WPC No.26986 of 2018.

Applying the same ratio, I dismiss the writ petition.

sd/-

**DAMA SESHADRI NAIDU**

**JUDGE**

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

EXHIBIT P1 COPY OF INVOICE DATED 06/09/2018.

EXHIBIT P2 COPY OF THE E-WAY BILL NO.271039236780 DATD 06/09/2018.

EXHIBIT P3 COPY OF STATEMENT DATED 09/09/2018 OF THE DRIVER IN MOV-01.

EXHIBIT P4 COPY OF THE ORDER DATED 09/09/2018 IN GST MOV-02 ISSUED BY THE 1ST RESPONDENT FOR PHYSICAL VERIFICATION.

EXHIBIT P5 COPY OF LETTER DATED 10/09/2018 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXHIBIT P6 COPY OF FULLY FILED UP E-WAY BILL (PART A AND B) NO.271039236780 DATED 06/09/2018/10-09-18.

EXHIBIT P7 COPY OF DETENTION ORDER DATED 12/09/2018 ISSUED BY HE 1ST RESPONDNT.

EXHIBIT P7 A COPY OF NOTICE DATED 12/09/2018 ISSUED BY THE RESPONDENT U/S.129(3) OF THE CGST/SCST ACT.

EXHIBIT P8 COPY OF REPLY DATED 12/09/2018 FILED BEFORE THE 1ST RESPONDENT.