

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.VINOD CHANDRAN

&

THE HONOURABLE MR. JUSTICE ASHOK MENON

MONDAY, THE 6TH DAY OF AUGUST 2018 / 15TH SRAVANA, 1940

WA.No. 1640 of 2018 IN WPC. 25661/2018

AGAINST THE JUDGMENT IN WP(C) NO.25661/2018 OF THE HIGH COURT OF KERALA
DATED 31-07-2018

APPELLANT/PETITIONER:-

RENJI LAL DAMODARAN,
DAMU & SONS SALES CORPORATION,
BEHIND SATHYA SAI HOSPITAL, PULAMON P.O.,
KOTTARAKKARA, KOLLAM DISTRICT.

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON
SMT.K.KRISHNA

RESPONDENTS/RESPONDENTS:

1. STATE TAX OFFICER,
KOTTARAKKARA- 680 121.
2. ASST. STATE TAX OFFICER,
SQUAD NO.III, DEPARTMENT OF STATE GST,
KOLLAM AT KARUNAGAPALLY - 683 101.

BY SENIOR GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06-08-2018,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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K. VINOD CHANDRAN & ASHOK MENON, JJ.

W.A. No.1640 of 2018

Dated, this the 6th day of August, 2018

JUDGMENT

Vinod Chandran, J.

The appeal has been filed against the judgment of the learned Single Judge in WP(C) No.25661 of 2018 dated 31.07.2018. The appellant's goods were detained on inspection and notice was issued under Section 129 of the Kerala Goods and Services Tax Act, 2017 [for brevity, the KGST Act] and Rule 140 of the Central Goods and Services Tax Rules, 2017 [for brevity, the CGST Rules].

2. The first contention is that there is no cause for directing a Bank Guarantee to be furnished. The Section specifically speaks of a Bank Guarantee and we find that the appellant had agreed to furnish a Bank Guarantee before the

learned Single Judge. We do not think any interference can be caused on that aspect.

3. The second contention raised by the learned Counsel appearing for the appellant is that the Bank Guarantee need be furnished only for the tax and penalty which could be imposed and the value of goods could be secured by a bond in the form **FORM GST INS-04**. We need only refer to Rule 140(1) of the CGST Rules, which is as follows:

*"140(1). The seized goods may be released on a provisional basis upon execution of a bond for the value of the goods in **FORM GST INS-04** and furnishing of a security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable.*

Explanation: For the purposes of the rules under the provisions of this Chapter, the "applicable tax" shall include central tax and State tax or central tax and the Union territory tax, as the case may be and the cess, if any, payable under the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017)."

4. In such circumstances, we modify the judgment of the learned Single Judge and direct release of the goods on the appellant furnishing

Bank Guarantee for tax and penalty found due and a bond for the value of goods in the form as prescribed under Rule 140(1) of the CGST Rules as extracted herein above.

With the above observation, the appeal would stand disposed of.

K.VINOD CHANDRAN
Judge

ASHOK MENON
Judge