

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 27TH DAY OF JULY 2018 / 5TH SRAVANA, 1940

WP(C).No. 25030 of 2018

PETITIONER(S)

DIAMOND FOOD PRODUCTS,
KOOVAPPADY P.O., PIN - 683 544,
PERUMBAVOOR (VIA),
ERNAKULAM DISTRICT, KERALA,
REPRESENTED BY ITS MANAGING PARTNER, N.P.GEORGE,
NAMBIATTUKUDY HOUSE,
RAYONPURAM P.O., PERUMBAVOOR.

BY ADVS.SRI.P.M.POULOSE
SRI.P.D.BROONO

RESPONDENT(S):

ASSISTANT STATE TAX OFFICER,
SQUAD NO.1,
STATE GST DEPARTMENT,
PALAKKAD, PIN - 678 001.

R BY GOVERNMENT PLEADER, SMT. THUSHARA JAMES.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-07-2018,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE TAX INVOICE DATED 19/7/2018
ISSUED BY THE SUPPLIER THERMAL ENERGY SYSTEMS.
- EXHIBIT P2 TRUE COPY OF THE CIRCULAR NO.17/2018 DATED
29/6/2018 ISSUED BY THE PRINCIPAL SECRETARY AND
COMMISSIONER STATE GST DEPARTMENT,
GOVERNMENT OF KERALA.
- EXHIBIT P3 TRUE COPY OF THE STATEMENT FROM THE DRIVER ON
THE SAME DAY IN FORM GST MOV.01 DATED 20/07/2018.
- EXHIBIT P4 TRUE COPY OF THE ORDER FOR PHYSICAL
VERIFICATION/INSPECTION OF THE CONVEYANCE,
GOOD AND DOCUMENTS IN FORM GST MOV-02 ISSUED
BY RESPONDENT DATED 20/07/2018.
- EXHIBIT P5 TRUE COPY OF THE PHYSICAL VERIFICATION REPORT
IN FORM GST MOV-04 ISSUED BY RESPONDENT DATED
20/07/2018.
- EXHIBIT P6 TRUE COPY OF THE ORDER OF DETENTION UNDER
SECTION 129(1) OF CGST ACT IN FORM GST MOV-06
DATED 20/07/2018.
- EXHIBIT P7 TRUE COPY OF THE SHOW CAUSE NOTICE UNDER
SECTION 129(3) OF THE CGST ACT 2017 DATED 20/07/2018.
- EXHIBIT P8 TRUE COPY OF THE E-WAY BILL NO.5110 4309 4636.

RESPONDENT'S EXHIBITS: NIL

// True copy //

PA to Judge

das

DAMA SESHADRI NAIDU, J.

W.P.(C). No. 25030 of 2018 (C)

Dated this the 27th day of July, 2018

JUDGMENT

The petitioner, a partnership firm, purchased certain machinery in Chennai and was transporting it. On 20th July 2018, the respondent authority intercepted the vehicle at Valayar Check Post. Though the driver produced a copy of the e-way bill, he did not carry with him the original or duplicate invoice. The respondent ordered physical inspection of the goods and documents, and eventually issued Ext.P7 proceedings, besides detaining the goods. Questioning the respondent's action, the petitioner has filed this writ petition.

2. Heard the learned counsel for the petitioner as also the learned Government Pleader appearing for the respondents.
3. Indeed, the petitioner has an efficacious alternative

remedy under Section 107 of the Central Goods and Service Tax Act. Nevertheless, the petitioner has agreed to provide the Bank guarantee as mandated under Rule 140 of the CGST Rules and to have the goods released, subject to the departmental proceedings now initiated through Ext.P7.

4. In response to the submissions made by the learned counsel for the petitioner, the learned Government Pleader has submitted that if the petitioner is willing to provide the Bank guarantee for the value of the goods as estimated in Ext.P7, the respondent has no objection to release the goods. She has also submitted that the Department can as well proceed under Ext.P7 and conclude the proceedings.
5. Under these circumstances, I hold that the respondent will release the petitioner's goods on its providing the

Bank guarantee for the value of the goods as mentioned in Ext.P7. Thereafter, the authorities may proceed further, in accordance with law.

Sd/-

DAMA SESHADRI NAIDU
JUDGE

das 27.07.2018