

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 24TH DAY OF MAY 2018 / 3RD JYAISHTA, 1940

WP(C) .No. 15256 of 2018  
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PETITIONER(S)  
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1 M/S.MANJUNATHAA ROCK DRILLS, 5/571,  
GOUNDERPALAYAM P.O., SALEM-636 105,  
TAMIL NADU, REPRESENTED BY ITS MANAGING PARTNER.

2 T. MURUGESH,  
PROPRIETOR, ASIAN AGENCIES, 9/657A,  
SULTHAN BATTERY POST, MYSORE ROAD,  
SULTHAN BATHERY-673 592.

BY ADV.SRI.TOMSON T.EMMANUEL.

RESPONDENT(S) :  
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1. ASSISTANT STATE TAX OFFICER,  
STATE GOODS & SERVICES TAX DEPARTMENT,  
SQUAD NO.II, ANAPPARA BUILDING, KALPATTA-673 121.

2. STATE TAX OFFICER,  
STATE GOODS & SERVICES TAX DEPARTMENT,  
SQUAD NO.II, ANAPPARA BUILDING, KALPATTA-673 121.

3. THE COMMISSIONER,  
STATE GOODS & SERVICES TAX DEPARTMENT,  
TAX TOWER, KARAMANA P.O.,  
THIRUVANANTHAPURAM-695 022.

4. STATE OF KERALA,  
TAXES (B) DEPARTMENT,  
STATE GOODS & SERVICES TAX DEPARTMENT,  
SECRETARIAT, THIRUVANANTHAPURAM-695 001,  
REPRESENTED BY SECRETARY TO GOVERNMENT.

5. GOVERNMENT OF INDIA,  
DEPARTMENT OF REVENUE,  
CENTRAL BOARD OF EXCISE AND CUSTOMS,  
NEW DELHI-110 001, REPRESENTED BY ITS  
SECRETARY TO GOVERNMENT, MINISTRY OF FINANCE.

R1 TO R4 BY SR. GOVT. PLEADER SRI. V.K. SHAMSUDEEN.  
R5 BY SRI.SREELAL N. WARRIER, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 24-05-2018, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF AGREEMENT DATED 01-06-2017 ENTERED INTO BETWEEN 1ST PETITIONER AND M/S. ASIAN BORE WELLS, SULTHANBETHERY, FOR HIRING OF RIG MOUNTED LORRY BEARING KA 01/ME-9600.
- EXHIBIT P2 TRUE COPY OF REGISTRATION CERTIFICATE DATED 01-09-2017 ISSUED UNDER GOODS AND SERVICES TAX ACT TO 1ST PETITIONER.
- EXHIBIT P3 TRUE COPY OF REGISTRATION CERTIFICATE DATED 25.09.2017 ISSUED UNDER GOODS AND SERVICES TAX ACT TO 2ND PETITIONER.
- EXHIBIT P3A TRUE COPY OF REGISTRATION CERTIFICATE DATED 26.09.2017 ISSUED UNDER GOODS AND SERVICES TAX ACT TO M/S ASIAN BORE WELLS, WAYANAD, WHEREIN 2ND PETITIONER IS MANAGING PARTNER.
- EXHIBIT P4 TRUE COPY OF TAX INVOICE NO. G17-18/702 DATED 07.02.2018 ISSUED TO 1ST PETITIONER, ACCOMPANIED WITH THE GOODS TRANSPORTED TO WAYANAD.
- EXHIBIT P5 TRUE COPY OF NOTICE DATED 12.02.2018 U/S. 129(1) OF KERALA GST ACT AND RULES IN DETAINING GOODS TRANSPORTED AS PER LORRY RECEIPT NO.66526729 ISSUED BY 1ST RESPONDENT TO 2ND RESPONDENT FOR PHYSICAL VERIFICATION AS WELL AS OF DEMANDING PENALTY.
- EXT.P5 (IN IA. NO.8737/2018): COPY OF THE PAGES 3 AND 4 OF EXT.P5 NOTICE ISSUED BY 1ST RESPONDENT, PRODUCED IN THE WRIT PETITION (C),AS DIRECTED BY THIS HONOURABLE COURT ON 21/05/2018.
- EXHIBIT P5A TRUE COPY OF NOTICE DATED 23.02.2018 U/S. 129(1) OF KERALA GST ACT AND RULES ISSUED BY 1ST RESPONDENT TO 2ND RESPONDENT DEMANDING IGST AND PENALTY.
- EXHIBIT P6 TRUE COPY OF REPLY DATED 09.03.2018 SUBMITTED BY 1ST PETITIONER BEFORE 1ST RESPONDENT AGAINST EXT P5 AND P5A NOTICES.
- EXHIBIT P6A TRUE COPY OF REPLY DATED 15.03.2018 SUBMITTED BY 2ND PETITIONER BEFORE 1ST RESPONDENT AGAINST EXT P5 AND P5A NOTICES. TRUE COPY OF INTERIM ORDER DATED 28.09.2017 IN WPC NO. 31328 OF 2017 PASSED BY THIS HON'BLE HIGH COURT ON A SIMILAR SET OF FACTS.
- EXHIBIT P7 TRUE COPY OF COMMUNICATION DATED 23.03.2018 ISSUED TO 2ND PETITIONER BY 1ST RESPONDENT, IN REFUSING TO RELEASE THE DETAINED GOODS.

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EXHIBIT P8            TRUE COPY OF JUDGMENT DATED 04.10.2017 PASSED BY  
THIS HON'BLE HIGH COURT IN WPC NO. 31328 OF 2017 IN  
QUASHING NOTICE, WHICH IS PASSED ON SIMILAR SET OF FACT.

RESPONDENT'S EXHIBITS:            NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.  
28/05/2018.

**P.B.SURESH KUMAR, J.**

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**W.P.(C) No. 15256 of 2018**  
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**Dated this the 24<sup>th</sup> day of May, 2018**

**JUDGMENT**

The first petitioner purchased certain goods from the State of Tamil Nadu and transported the same to the second petitioner in the State of Kerala. The goods were detained by the first respondent under Section 129 of the Kerala State Goods and Services Tax Act (the Act) and the second petitioner was issued Ext.P5(a) notice calling upon him to show cause why Integrated Goods and Service Tax and penalty as indicated therein shall not be paid in respect of the detained goods. Exts.P6 and P6(a) are the objections preferred by the petitioners to P5(a) notice. The grievance of the petitioners in the writ petition concerns the inaction on the part of the second respondent in completing the

adjudication provided for under Section 129 of the Act in respect of the goods detained. The petitioners, therefore, seek appropriate directions in this regard in the writ petition.

2. Heard the learned counsel for the petitioners as also the learned Government Pleader.

Having regard to the facts and circumstances of the case as also the provisions contained in Section 129 of the Act, I deem it appropriate to dispose of the writ petition directing the second respondent to complete the adjudication in respect of the goods detained in terms of Ext.P5(a) order within two weeks from the date of production of a copy of this judgment. Ordered accordingly. This shall be done having regard to Exts.P6 and P6(a) objections preferred by the petitioners and after affording the petitioners an opportunity of hearing. The petitioners shall produce a certified copy of this judgment along with a copy of the writ petition for compliance before the second respondent.

Sd/-

**P.B.SURESH KUMAR,  
JUDGE**

vps 25/5

/True Copy/

PS to Judge