

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 18TH DAY OF NOVEMBER 2019 / 27TH KARTHIKA, 1941

WP(C).No.30798 OF 2019(Y)

PETITIONER:

ALFA GROUP
MANACKAL BUILDING, KOLADATHU JUNCTION, KAYAMKULAM,
ALAPPUZHA 690 502
REPRESENTED BY ABHILASH AYYAPPAN, PROPRIETOR

BY ADV. SMT.BLOSSOM MATHEW

RESPONDENTS:

- 1 THE ASSISTANT STATE TAX OFFICER
STATE GOODS AND SERVICE TAX DEPARTMENT, SQUAD NO. 1,
ALAPPUZHA 688 013
- 2 THE DEPUTY COMMISSIONER OF STATE TAX,
RAMACHANDRA COMPLEX, VAZHICERRY, NEAR VAZHICHERRY
BRIDGE, ALAPPUZHA 688 001
- 3 THE COMMERCIAL TAX OFFICER,
STATE GOODS AND SERVICE TAX DEPARTMENT, MINI CIVIL
STATION, KAYAMKULAM, ALAPPUZHA 680 502

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18.11.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The challenge in the Writ Petition is against Ext.P2 notice by which, goods belonging to the petitioner were detained in a parcel godown, on the ground that the value quoted in the invoice that accompanied the goods was low when compared to the Maximum Retail Price (MRP) of the goods. There is a further averment therein that the HSN code of the goods was wrongly entered. It is the contention of the learned counsel for the petitioner that the reasons given in Ext.P2 order of detention do not justify a detention of the goods under Section 129 or under Section 130, and therefore, a direction ought to be issued to the respondents to immediately release the goods belonging to the petitioner.

2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I find that none of the reasons stated in Ext.P2 order justify detention of the goods. There is no provision under the GST Act which mandates that the goods shall not be sold at prices below the MRP declared thereon. Further, there is nothing

in Ext.P2 order that shows that, on account of the alleged wrong classification of the goods there was any difference in the rate of tax that was adopted by the assessee. In my view when the statutory scheme of the GST Act is such as to facilitate a free movement of goods, after self assessment by the assessee concerned, the respondents cannot resort to an arbitrary and statutorily unwarranted detention of goods in the course of transportation. Such action on the part of department officers can erode public confidence in the system of tax administration in our country and, as a consequence, the country's economy itself. Under such circumstances, I quash Ext.P2 detention order and direct the respondents to forthwith release the goods belonging to the petitioner on the petitioner producing a copy of this judgment before the said authority. I also direct the Commissioner, Kerala State Taxes Department, Thiruvananthapuram to issue suitable instructions to the field formations so that such unwarranted detentions are not resorted to in future. The Registry shall communicate a copy of this judgment to the Commissioner, Kerala State Taxes Department, Thiruvananthapuram for necessary action.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

APPENDIX

PETITIONERS EXHIBITS

EXHIBIT P1	TRUE COPY OF THE INVOICE NO. 431 DATED 24-09-2019 OF R.M TRADING COMPANY
EXHIBIT P2	TRUE COPY OF THE FORM GST MOV -06 ORDER OF DETENTION OF GOODS DATED 18-10-2019
EXHIBIT P3	TRUE COPY OF THE FORM GST MOV-04 PHYSICAL VERIFICATION REPORT DATED 18-10-2019
EXHIBIT P4	TRUE EXTRACTS OF THE CORRESPONDING HSN CODE DETAILS FROM THE WEBSITE OF CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA
EXHIBIT P5	TRUE COPY OF NOTIFICATION NO. 12/2017 -CENTRAL TAX DATED 28-06-2017

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE