

Gtl Infrastructure Ltd Vs. Asst. Commissioner (Works Contract)

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Court : Kerala

Decided On : Jan-15-2013

Judge : Honourable Mr.Justice Antony Dominic

Appellant : Gtl Infrastructure Ltd

Respondent : Asst. Commissioner (Works Contract)

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE ANTONY DOMINIC TUESDAY, THE 15TH DAY OF JANUARY 2013 25TH POUSHA 193 WP(C).No. 1021 of 2013 (C)

----- PETITIONER: ----- M/S G T L INFRASTRUCTURE LTD, PRABHU TOWER,40/9643,OPP. CHENNAI SILKS M.G ROAD,ERNAKULAM REPRESENTED BY DINAL BABU K., SENIOR EXECUTIVE (FINANCE AND ACCOUNTS) BY ADVS.SRI.HARISANKAR V. MENON SMT.MEERA V.MENON SRI.MAHESH V.MENON SRI.HANSON.P.MATHEW RESPONDENTS: -----

1. ASST. COMMISSIONER (WORKS CONTRACT), DEPARTMENT OF COMMERCIAL TAXES,ERNAKULAM 68201 .

2. THE COMMERCIAL TAX INSPECTOR, COMMERCIAL TAX CHECK POST,BANGARA,MANJESWAR BY SENIOR GOVERNMENT PLEADER SRI.SAIJ RAJ THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-01-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: VK WP(C).No. 1021 of 2013 (C) -----

APPENDIX ----- PETITIONER'S EXHIBITS ----- EXT.P1. COPY OF REGISTRATION CERTIFICATE OF THE PETITIONER ISSUED BY THE 1ST RESPONDENT EXT.P2. COPY OF INVOICE NO.KERALA (74)/GIL/2012-13/002 EXT.P3. COPY OF DELIVERY NOTE SENT BY THE PETITIONER IN FORM NO.15 EXT.P4. COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT. EXT.P5. COPY OF REPLY FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT. EXT.P6. COPY OF LETTER ISSUED BY THE 2ND RESPONDENT. RESPONDENT'S EXHIBITS : NIL ----- / TRUE COPY / P.A. TO JUDGE VK ANTONY DOMINIC, J

W.P.(C).1021/2013 Dated this the 15th day of January, 2013 JUDGMENT Detention of a consignment of battery scrap was effected originally by Ext.P4 notice issued under Section 47(2) of the KVAT Act. The allegation raised was that the petitioner was not authorized to make transactions of the goods interstate. To that notice, petitioner filed Ext.P5 reply, stating that as per the registration certificate, they were authorized to make transactions of the goods in question. Immediately thereafter, petitioner was issued Ext.P6 stating that as they did not have registration under Section 7(1) of the CST Act, petitioner is not permitted to effect interstate sale of the batteries. It is there upon that this writ petition has been filed challenging Exts.P4 and P6.

2. Specific contention raised in the writ petition is that the petitioner has obtained registration under the provisions of the CST Act and reference is made to Ext.P1 registration certificate. Thus, the correctness W.P.(C).1021/13 2 or otherwise of the contention, evidenced by Exts.P4 and P6, will depend upon the question whether the petitioner has a registration under Section 7(1) of the CST Act. On the one hand, petitioner asserts that they have a registration as claimed by them, respondents contend otherwise. In such a situation, this controversy can be resolved only in an adjudication which is to be conducted by the competent authority. The question that will survive is whether pending such adjudication, the goods detained as per Ext.P4 should be kept under detention.

3. Admittedly, petitioner is a dealer registered under the KVAT Act, regarding which respondents also can have no dispute. In such circumstances, I direct that the goods detained by Ext.P4, shall be released to the petitioner subject to their

executing a bond without sureties. Writ petition is disposed of as above. ANTONY DOMINIC, Judge mrca

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