

Eco Stack Vs. Commercial Tax Inspector

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Court : Kerala

Decided On : Feb-28-2014

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : Eco Stack

Respondent : Commercial Tax Inspector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON FRIDAY,THE28H DAY OF FEBRUARY20149TH PHALGUNA, 1935 WP(C).No. 5874 of 2014 (H) ----- PETITIONER: ----- ECO STACK, 35/3017 H1, VYLOPPILLY ROAD, PALARIVATTOM, KOCHI-682 024, REPRESENTED BY ITS PARTNER JOBY JOSEPH. BY ADVS.SRI.S.ANIL KUMAR, SRI.K.S.HARIHARAN NAIR, SRI.K.UMAMAHESWAR, SRI.P.K.SASIKUMAR. RESPONDENTS: ----- 1. COMMERCIAL TAX INSPECTOR, COMMERCIAL TAXES CHECK POST, BANGRA MANJESWAR, KASARAGOD DISTRICT,PIN-671 121.

2. COMMERCIAL TAX OFFICER, SECOND CIRCLE, KALAMASSERY, KOCHI-682 024. BY SR. GOVERNMENT PLEADER SMT. M.J.

RAJASREE. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON2802-2014, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING: Prv. W.P.(C).NO.5874/2014-H: APPENDIX PETITIONER'S EXHIBITS: EXHIBIT P1 : TRUE COPY OF THE REGISTRATION CERTIFICATE. EXHIBIT P2 : TRUE COPY OF THE PURCHASE

ORDER

DT.10-2-2014. EXHIBIT P3 : TRUE COPY OF THE INVOICE DT.22-2-2014 ISSUED BY M/S.EUROSTEEL OFFICE FURNITURE SYSTEMS PVT. LTD., PUNE. EXHIBIT P4 : TRUE COPY OF THE DECLARATION DT.22-2-2014 IN FORM8. EXHIBIT P5 : TRUE COPY OF THE NOTICE DT.26-2-2014 OF THE1T RESPONDENT. EXHIBIT P6 : TRUE COPY OF THE REPLY DT.26-2-2014 FILED BY THE PETITIONER, (COLLECTIVELY). RESPONDENTS' EXHIBITS: NIL. //TRUE COPY// P.A. TO JUDGE. Prv. P.R. RAMACHANDRA MENON, J.

----- W.P.C. No.5874
OF2014----- Dated this the 28th day of February, 2014.

JUDGMENT

The petitioner is aggrieved of the detention of goods brought by him (on the strength of Ext.P3 Invoice), which was detained by the first respondent/Commercial Tax Inspector issuing Exts.P5 notice under Section 47(2) of the KVAT Act doubting evasion of tax and demanding security deposit as specified therein which made the petitioner to approach this Court by filing the writ petition.

2. The learned Government Pleader appearing for the respondent submits on instructions and with reference to the materials on record that, because of the defects noted as per Ext.P5, the goods had to be detained in tune with the relevant provisions of law, doubting evasion of tax, and demanding security deposit. The learned Government Pleader further submits that the petitioner is neither the consignee nor the consignor.

3. After hearing both the sides, this Court finds that this is a matter which requires to be finalized by way of adjudication W.P.C.No.5874 OF20142 proceedings under Section 47(6) of the KVAT Act. But, for that reason, the goods need not be detained and the same shall be released to the petitioner forthwith, on satisfying

25% of the security deposit demanded vide Ext. P5 and on executing a 'simple bond' without sureties for the balance amount and also subject to production of 'No Objection Certificate' from the consignee or consignor. This however shall be without prejudice to the rights and liberties of the respondent/competent authority to proceed with the adjudication proceedings, which shall be finalized in accordance with law, as expeditiously as possible at any rate, within 'three months' from the date of receipt of a copy of this judgment. The petitioner shall produce a copy of the judgment, along with a copy of the writ petition, before the first respondent, for further steps. Writ petition is disposed of. P.R. RAMACHANDRA MENON, JUDGE sp

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