

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 17TH DAY OF SEPTEMBER 2020 / 26TH BHADRA, 1942

WP(C).No.18522 OF 2020(M)

PETITIONER:

M/S.BEST SELLERS (COCHIN) PRIVATE LIMITED
NUCLEUS MALL, MARADU, 682 304, REPRESENTED BY GENERAL
MANAGER (OPERATION) NISTAR J M SAIT.

BY ADV. SRI.S.ABU BAKER KUNJU

RESPONDENT:

THE ASSISTANT STATE TAX OFFICER
SQUAD NO. II, OFFICE OF THE DEPUTY COMMISSIONER OF
STATE TAX, (INTELLIGENCE), KERALA SGST DEPARTMENT,
PALAKKAD 675 001.

BY GOVERNMENT PLEADER DR.THUSHARA JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17.09.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner has approached this Court aggrieved by Ext.P7 detention notice issued to him in Form GST MOV-7. In the Writ Petition, it is the case of the petitioner that the transportation was of a consignment of watches that had been supplied to him by the seller in Delhi at a discounted rate of Rs.8.99. It is seen that the transportation of the goods was accompanied by Ext.P4 tax invoice, where the supplier in Delhi had shown the actual price of the consignment of watches, which was Rs.4,49,550/- and had given a discount of almost the entire amount save to the extent of Rs.8.99, and had paid IGST at the rate of 18% on the actual value of the watches. The consignment was detained by the respondent, on the ground that, although the consignment was covered by a valid invoice, it was not accompanied by a valid e-way bill. The learned counsel for the petitioner would point that inasmuch as the discounted value of the goods was less than Rs.50,000/-, there was no requirement for the consignment to be accompanied by an e-way bill.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader for the respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find force in the contention of the learned counsel for the petitioner that inasmuch as the effective value of the goods that was transported was only Rs.8.99 as evident from Ext.P4 invoice, and the provisions of the Act and Rules mandate that an e-way bill is required only for consignments whose value exceeds Rs.50,000/-, the detention at the instance of the respondent cannot be said to be justified. Under such circumstances, I allow this Writ Petition by quashing Ext.P7 order and directing the respondent to forthwith release the goods and the vehicle to the petitioner on the petitioner producing a copy of this judgment before the said authorities. The learned Government Pleader shall also communicate the gist of this judgment to the respondent for enabling the petitioner to obtain an immediate release of the goods and the vehicle.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE REGISTRATION CERTIFICATE IN FORM GST REG-6 HAVING REGISTRATION NUMBER 32AABCB3742J1ZZ, IN THE NAME OF THE PETITIONER.
- EXHIBIT P2 THE TRUE COPY OF THE SCHEME OF INCENTIVE AND FREE GIFTS BROCHURE
- EXHIBIT P3 TRUE COPY OF INVOICE NO. 2721 DATED 27-09-2019 FROM ASHANA ENTERPRISES NEW DELHI, IN FAVOR OF FRANK FABER INDIA PVT LTD (DELHI)
- EXHIBIT P4 TRUE COPY OF INVOICE NO. 202041005336 DATED 24-08-2020 FROM FRANK FABER INDIA PVT LTD (DELHI)
- EXHIBIT P5 TRUE COPY OF THE FORM GST MOV-01 SUBMITTED BY THE DRIVER OF THE VEHICLE DATED 02-08-2020
- EXHIBIT P6 TRUE COPY OF THE ORDER IN FORM GST MOV-02 DATED 02-09-2020 ISSUED BY THE RESPONDENT.
- EXHIBIT P7 TRUE COPY OF THE NOTICE NO VC/II/1542020-21 IN FORM GST MOV-07 DATED 02-09-2020
- EXHIBIT P8 TRUE COPY OF THE REPLY OF FRANK FABER INDIA PVT LTD G.T KAMAL ROAD, DELHI DATED 03-09-2020 SUBMITTED BEFORE THE RESPONDENT.
- EXHIBIT P9 TRUE COPY OF THE E-WAY BILL NO. 771143314951 GENERATED AT 2.55 PM ON 02-09-2020

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE