
(2012) 02 KL CK 0178

In the High Court Of Kerala

Case No : Writ Petition (C) .No. 4743 of 2012 (P)

Applied Solar Technologies (India) Pvt. Ltd. and Team Sustain APPELLANT
Vs

The Intelligence Officer Squad - V, Office of The Inspecting RESPONDENT
Assistant Commissioner (Int) Department of Commercial
Taxes Government of Kerala, Ernakulam - 682015 and State
of Kerala

Date of Decision : 29-02-2012

Acts Referred:

Citation : (2012) 02 KL CK 0178

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

**Advocate : S. Arun Raj, for the Appellant; Denu Joseph and Smt. Shoba
Annamma Eapen, Govt. Pleader, for the Respondent**

Judgement

Antony Dominic, J.—Pleadings in the writ petition are to the effect that the first petitioner purchased RTU DC Meter from a company in US. According to the petitioners, the second petitioner is a service provider of the US company and Ext.P1 is the agreement between them. Goods had some technical defects and for service purposes, the goods were sent by the first petitioner to the second petitioner through courier service. En route the goods were detained as per Ext. P4 notice of detention and the reasons mentioned mainly is that the story of service and repair is doubtful. According to the petitioners, by filing Exts. P6 and P7 replies and producing other documents substantiating their case of service, the goods were not released and it is in these circumstances, the writ petition is filed. Learned Government Pleader who has obtained instructions in the matter submits that although the goods were stated to have been sent by courier service from Patna, the documents did not contain any declaration at any check post en route. It is also stated that the documents produced show evidence of stock transfer where as the case now set up by the petitioner is one of repair and service. Facts as disclosed from the submissions made by the learned Government Pleader cannot be said to be irrelevant justifying detention of the

goods. However, these allegations are yet to be established against the petitioners in an enquiry to be held with notice to them. In the meanwhile, I do not think any prejudice will be caused to the respondents if the goods in question are released, subject to the second petitioner, a dealer registered under the KVAT executing a bond without sureties, which shall be subject to adjudication in terms of the Act. Writ petition is disposed of as above.