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(2012) 08 KL CK 0195

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 19843 of 2012 (E)

M/s. Godrej and Boyce Mfg. Co. Ltd. APPELLANT

Vs

Intelligence Inspector, Intelligence Squad No. IV, Commercial Taxes, Kozhikode-673006, Commercial Tax Inspector, Commercial Taxes Check Post, Walayar-678625 and Commissioner of Commercial Taxes, Commercial Taxes, Thiruvananthapuram - 695033 RESPONDENT

Date of Decision : 22-08-2012

Acts Referred:
Kerala Value Added Tax Act, 2003 — Section 47(2)

Citation : (2012) 08 KL CK 0195

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

Advocate : Tomson T. Emmanuel, for the Appellant; Shoba Annamma Eapen Sr. Government Pleader for R1 to R3, for the Respondent

Judgement

P.R. Ramachandra Menon, J.

APPENDIX

PETITIONER''S EXHIBITS:

EXT.P1:

Copy of Purchase Order No .PO/AJCE/2012/1139 Dated 12/6/2012 Issued By AmalJyothi College of Engineering, Kanjirappally For The Supply of Lcd Projectors To Be Used In Their Class Room For Conducting Technical Education Courses.

EXT.P2:

Copy of Invoice-Cum-Challan No.701/87015788 Dated 31/7/2012 Raised By The Petitioner Company, Against Ext.P1. Purchase Order.

EXT.P3:

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Copy of Notice No.VCR. IV/12-13 Dated 4/8/2012 Issued U/S.47(2) of The Kerala Value Added Tax Act, By The Ist Respondent, To The Consignee, Through The Transporting Agency.

EXT.P4:

Copy of The Reply Dated 17/8/2012 Submitted By The Consignee Before 2nd Respondent and Copy E-Mailed To Ist Respondent, Against Ext.P3 Notice.

EXT.P5:

Copy of Certificate of Ownership In Form No.16 Dated 14/8/2012 Under The Kvat Act, Submitted By The Consignee Before The 2nd Respondent, Along With Ext.P4.

EXT.P6:

Copy of Approval Dated 10/5/2012 Issued By All India Council For Technical Education To The Consignee of The Goods, For Conducting Technical Education Courses, Submitted Before 2nd Respondent Along With Ext.P4.

EXT.P7:

Copy of The Certificate Dtd. 30/05/2012 Issued By Mahatma Gandhi University, Kottayam In Allotting Seats For B.Tech, M.Tech and MCA Technical Education Courses To The Consignee of The Goods, Submitted Before R.2. Along With Ext.P.4.

EXT.P8:

Copy of Judgement of This Hon''ble Court Reported in (2000) 8 KTR 244 (Ker), Wherein It Was Held That Goods From Outside The State Cannot Be Detained For Want of Any Document Under The Consignee State.

RESPONDENTS'' EXHIBITS:

NIL.

1. Pursuant to Ext. P1 purchase order placed by Amal Jyothi College of Engineering to supply some LCD projectors to be used in their classes for the purpose of conducting the technical education courses, the petitioner effected the supply as per Ext.P2 invoice dated 31.07.2012. As per the terms of purchase order, the petitioner has to effect the ''door supply'' and accordingly, it was transported in vehicle bearing No.KL 07 AW 4431, when it was intercepted on 04.08.2012 issuing Ext. P3 notice u/s 47(2) of the KVAT Act doubting evasion of tax and demanding security deposit to the tune of Rs. 1,40,400/- (Rupees one lakh forty thousand four hundred). According to the petitioner, though the factual position with regard to the satisfaction of the ''full CST'' was sought to be substantiated by filing Ext. P4 reply, the first respondent did not accede to this; which made the petitioner to approach this Court. Heard the learned Government Pleader as well.

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2. Considering the facts and circumstances and in particular, that the petitioner is a registered dealer under the CST Act both under the Karnataka and Kerala statutes, in so far as the concerned branches are concerned, it is always open for the concerned respondent to pursue the adjudication proceedings in accordance with law. But, for that reason, the goods need not be detained any further. It shall be released to the petitioner forthwith, on executing a ''simple bond'' without sureties. This shall be without prejudice to the rights and liberties of the respondents to pursue the adjudication proceedings, which shall be finalized in accordance with the relevant provisions of law, as expeditiously as possible.

Writ petition is disposed of.

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