

IN THE HIGH COURT OF KERALA AT ERNAKULAM

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

RELCON FOUNDATIONS (P) LTD

Versus

THE ASSISTANT STATE TAX OFFICER

WP(C).No.29794 OF 2019(Y) decided on 06/11/2019

Advocated By -

BY ADV. SRI.RAMESH CHERIAN JOHN GOVERNMENT PLEADER DR.THUSHARA JAMES

Challenge in the writ petition is against Ext.P1 notice of detention and Ext.P4 notice proposing confiscation of the goods belonging to the petitioner that were detained while in transit. A perusal of Ext.P1 detention notice would indicate that the detention of the vehicle carrying the goods was on the ground that the GSTR 3B returns had not been filed from June 2018 and GSTR I had not been filed from February 2019. It is submitted by the learned counsel for the petitioner that the said grounds cannot be justified for detention of the vehicle under Section 129 of the KGST Act.

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

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 the reasons stated in Ext.P1 detention notice cannot be a justification for detaining the goods in terms of Section 129 of the KGST Act. Similarly, the said ground cannot form the basis of Ext.P4 notice proposing confiscation of the goods detained inasmuch as the ingredients of the offence covered by Section 130 are not satisfied in the instant case. I, therefore, dispose the writ petition by quashing Exts.P1 and P4 notices and directing the 1st respondent to forthwith release the goods and the vehicle to the petitioner on the petitioner producing a copy of the judgment before the said respondent. I make it clear that nothing in this judgment will prevent the respondents from initiating any penal action against the goods, if warranted, by following the procedure under the GST Act.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE