

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 08TH DAY OF NOVEMBER 2019 / 17TH KARTHIKA, 1941

WP(C).No.30185 OF 2019

PETITIONER/S:

M/S.KANNANGAYATHU METALS  
IV 274 A, IV/124B, PEPPATHY, PAZHOOR P.O., PIRAVOM-  
686 664, ERNAKULAM DISTRICT, REPRESENTED BY ITS  
MANAGING PARTNER, SRI.SABU PAUL.

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT/S:

- 1 ASSISTANT STATE TAX OFFICER  
SQUAD NO.1, STATE GOODS AND SERVICE TAX DEPARTMENT,  
THIRUVANANTHAPURAM-695 033.
- 2 STATE TAX OFFICER,  
SQUAD NO.1, STATE GOODS AND SERVICE TAX DEPARTMENT,  
THIRUVANANTHAPURAM-695 033.
- 3 STATE OF KERALA,  
STATE GOODS AND SERVICE TAX DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM-695 001, REPRESENTED BY SECRETARY  
TO GOVERNMENT.
- 4 COMMISSIONER OF GOODS AND SERVICES TAX,  
GOVERNMENT OF INDIA, MINISTRY OF FINANCE, DEPARTMENT  
OF REVENUE, CENTRAL BOARD OF INDIRECT TAXES AND  
CUSTOMS, GST POLICY WING, NEW DELHI-110 001.

OTHER PRESENT:

GP MM JASMINE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
08.11.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

The petitioner has approached this Court aggrieved by Ext.P2 detention notice issued to him detaining the goods and the vehicle at a place called Vazhayila. It is the case of the petitioner that the reason shown in Ext.P2 notice for detention is that the e-Way Bill in respect of the consignment showed that it was to cover a transportation from Pazhoor-Peppathi to Vettoor road- Kaniyapuram whereas the vehicle was detained at Vazhayila which was not on that route. It is the explanation of the learned counsel for the petitioner that, since the driver of the vehicle had taken an alternate route through MC Road, the vehicle had to reach Vazhayila before turning to Kaniyapuram and it was therefore that the vehicle was intercepted at Vazhayila by the respondents. The learned counsel for the petitioner would submit that there is no mandate under section 129 of the GST Act for detaining goods that were covered by a valid e-Way Bill merely because the driver of the vehicle took an alternate route to reach the same destination.

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

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 there cannot be a mechanical detention of a consignment solely because the driver of the vehicle had opted for a different route, other than what is normally taken by other transporters of goods covered by similar e-Way bills. No doubt, if the vehicle

is detained at a place that is located on an entirely different stretch of road and plying in a direction other than towards the destination shown in the e-Way bill, then a presumption could be drawn that there was an attempt at transportation contrary to the e-Way Bill. In the instant case, there is no such indication. I therefore allow this writ petition by directing the 1<sup>st</sup> respondent to forthwith release the goods and consignment to the petitioner on the petitioner producing a copy of this judgment before him.

Sd/-

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

*okb*

//True copy//      P.S. to Judge

## **APPENDIX**

### **PETITIONER'S/S EXHIBITS:**

- EXHIBIT P1** TRUE COPY OF TAX INVOICE NO.K/01619/2019-20 DATED 02.11.2019 RAISED ON M/S. FARHAN ALUMINIUM MATERIAL AND PVT DOORS, THIRUVANANTHAPURAM AGAINST CGST AND SGST @ OF 9% EACH FOR THE SALE OF SLUMINIUM PROFILES.
- EXHIBIT P1 A** TRUE COPY OF E-WAY BILL NO.5611 4483 8446 DATED 03.11.2019 GENERATED AT 04.28 PM FOR TANSPORT OF GOODS IN VEHICLE NO. KL 39 H 2554.
- EXHIBIT P2** TRUE COPY OF NOTICE IN MOV-02, MOV-04, MOV-06AND MOV-07 ISSUED SIMULTANEOUSLY AT 09.22 AM ON 04.11.2019 BY 1ST RESPONDENT, DEMANDING TAX AND PENALTY UNDER SECTION 129 OF SGST AND CGST ACTS, AALLEGING DEVIATION IN ROUTE.
- EXHIBIT P3** TUE COPY OF REPLY DATED 06.11.2019 SENT TO 1ST RESPONDENT FOR IMMEDIATE RELEASE OF GOODS ALONG WITH TRANSPORT VEHICLE, WITHOUT INSISTING TAX AND PENALTY.
- EXHIBIT P4** TRUE COPY OF RELEVANT PAGES OF CIRCULAR NO.41/15/2018-GST DATED 13.04.2018 ISSUED BY 4TH RESPONDENT, IN PRESCRIBING PROCEDURE FOR INTERCEPTION OF CONVEYANCES FOR INSPECTION OF GOODS IN MOVEMENT, DETENTION AND RELEASE.