

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 28TH DAY OF FEBRUARY 2017/9TH PHALGUNA, 1938

WP(C).No. 6618 of 2017 (B)

PETITIONER(S) :

SONEX METAL COMBINES,
X, 563 & 565, PONGAM,
EAST KORATTY, PIN - 680 308,
REPRESENTED BY ITS PROPRIETOR
MANJALY POULOSE FRANCIS.

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENT(S) :

1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, WALAYAR,
PALAYAR DISTRICT - 678 624.
2. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAX OFFICE, CHALAKUDY-680 307.

BY GOVERNMENT PLEADER SRI.V.K.SHAMSUDHEEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-02-2017, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

msv/

WP(C) .No. 6618 of 2017 (B)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 COPY OF THE KVAT REGISTRATION CERTIFICATE ISSUED BY
THE 2ND RESPONDENT DTD.10.1.2017.

EXHIBIT P2 COPY OF THE RETURN SUBMITTED BY THE PETITIONER FOR THE
MONTHS OF DECEMBER 2016 DTD.25.1.2017.

EXHIBIT P3 COPY OF THE INVOICE NUMBER 1009613836 DTD.10.11.2016.

EXHIBIT P4 COPY OF THE ORIGINAL TRANSACTION SLIP DTD.14.11.2016.

EXHIBIT P5 COPY OF THE NOTICE DTD.19.11.2016 ISSUED BY THE
1ST RESPONDENT.

EXHIBIT P6 COPY OF THE REPLY DTD.9.2.2017 SUBMITTED BEFORE THE
1ST RESPONDENT.

EXHIBIT P7 REPLY TO EXT.P6 ISSUED BY THE 1ST RESPONDENT
DTD.10.2.2017.

EXHIBIT P8 COPY OF THE REQUEST FOR CANCELLATION OF TRANSACTION-
SLIP UPLOADED IN THE OFFICIAL WEB-SITE DTD.14.2.2017.

EXHIBIT P9 COPY OF THE FRESH TRANSACTION-SLIP UPLOADED IN THE
OFFICIAL WEB SITE OF THE 2ND RESPONDENT DTD.14.2.2017.

EXHIBIT P10 COPY OF THE 2ND REPLY DTD.16.2.2017 FILED BEFORE THE
1ST RESPONDENT.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. VINOD CHANDRAN, J.

W.P.(C) No. 6618 of 2017 (B)

Dated: 28th February, 2017

J U D G M E N T

The petitioner was transporting goods under Ext.P3 invoice. The Form 8F declaration, however, showed it to be 'machinery and parts covered under 3rd schedule', as is seen from Ext.P4. The reason for detention was that machinery parts are exigible to tax at the rate of 5% while gear boxes are exigible at 14.5%.

2. The learned Counsel for the petitioner submits that there is no sale of gear boxes effected by the petitioner and only machineries are sold in which the gear boxes are embedded.

3. In any event, this is a matter to be looked into in an adjudication proceeding and the invoice, based on

which Ext.P4 was issued, being Ext.P3, also shows the description of the goods as gear boxes. Considering also the fact that the petitioner is a registered dealer within the State, the goods can be released on execution of simple bond without sureties for the security demanded. The adjudication proceedings shall be continued untrammelled by any of the observations made herein above.

The writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE