

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 24TH DAY OF OCTOBER 2018 / 2ND KARTHIKA,
1940

WP(C).No. 34250 of 2018

PETITIONER/S:

DAILY EXPRESS,
VAZHICHERRY WARD, ALAPPUZHA - 1, REPRESENTED
BY ITS DESIGNATED PARTNER MEENA KURUVILLA,
AGED 62 YEARS, W/O.T.T.KURUVILLA, RESIDING AT
THOTTATHIL HOUSE, CULLEN ROAD, VAZHICHERRY
WARD, ALAPPUZHA - 1.

BY ADV. SMT.S.SUJINI

RESPONDENT/S:

- 1 THE ASSISTANT STATE TAX OFFICER,
SURVILLANCE SQUAD NO.10, STATE GST DEPARTMENT,
KOLLAM - 691 002.
- 2 COMMISSIONER OF KERALA STATE GOODS AND SERVICE
TAX DEPARTMENT
OFFICE OF THE COMMISSIONER OF KERALA STATE
GOODS AND SERVICE TAX DEPARTMENT, TAX TOWER,
KARAMANA, THIRUVANANTHAPURAM-695001.
- 3 STATE OF KERALA
THIRUVANANTHAPURAM-695001, REPRESENTED BY ITS
SECRETARY TO TAXES.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24.10.2018, ALONG WITH WP(C).34217/2018,
WP(C).34206/2018, WP(C).34190/2018, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

W.P.(C). No. 34250 of 2018 & Con. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 24TH DAY OF OCTOBER 2018 / 2ND KARTHIKA,
1940

WP(C).No. 34217 of 2018

PETITIONER/S:

ALEPPEY PARCEL SERVICE,
VAZHICHERRY WARD, ALAPPUZHA - 1, REPRESENTED
BY ITS DESIGNATED PARTNER, MEENA KURUVILLA,
AGED 62 YEARS, W/O.T.T.KURUVILLA, RESIDING AT
THOTTATHIL HOUSE, CULLEN ROAD, VAZHICHERRY
WARD, ALAPPUZHA - 1.

BY ADV. SMT.S.SUJINI

RESPONDENT/S:

- 1 THE ASSISTANT STATE TAX OFFICER,
MOBILE SQUAD NO.2, STATE GST DEPARTMENT,
KOLLAM - 691 002.
- 2 COMMISSIONER OF KERALA STATE GOODS AND
SERVICE TAX DEPARTMENT,
OFFICE OF THE COMMISSIONER OF KERALA STATE
GOODS AND SERVICE TAX DEPARTMENT, TOX TOWER,
KARAMANA, THIRUVANANTHAPURAM.
- 3 STATE OF KERALA
THIRUVANANTHAPURAM 695 001,
REPRESENTED BY ITS SECRETARY TO TAXES.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24.10.2018, ALONG WITH WP(C).34250/2018,

-3-

W.P.(C). No. 34250 of 2018 & Con. cases

WP(C).34206/2018, WP(C).34190/2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 24TH DAY OF OCTOBER 2018 / 2ND KARTHIKA,
1940

WP(C).No. 34206 of 2018

PETITIONER/S:

DAILY EXPRESS
VAZHICHERRY WARD, ALAPPUZHA -1, REPRESENTED
BY ITS DESIGNATED PARTNER, MEENA KURUVILA,
AGED 62 YEARS, W/O. T.T. KURUVILLA, RESIDING
AT THOTTATHIL HOUSE, CULLEN ROAD, VAZHICHERRY
WARD, ALAPPUZHA -1.

BY ADV. SMT.S.SUJINI

RESPONDENT/S:

1 THE ASSISTANT STATE TAX OFFICER (INT)
SURVILLANCE SQUAD NO.2
SURVILLANCE SQUAD NO.2, STATE GST DEPARTMENT,
KOLLAM - 691 002.

W.P.(C). No. 34250 of 2018 & Con. cases

- 2 COMMISSIONER OF KERALA STATE GOODS AND SERVICE TAX DEPARTMENT
OFFICE OF THE COMMISSIONER OF KERALA STATE GOODS AND SERVICE TAX DEPARTMENT, TAX TOWER, KARAMANA, THIRUVANANTHAPURAM - 691 002.
- 3 STATE OF KERALA
THIRUVANANTHAPURAM - 695 001, REPRESENTED BY ITS SECRETARY TO TAXES DEPO.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.10.2018, ALONG WITH WP(C).34250/2018, WP(C).34217/2018, WP(C).34190/2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 24TH DAY OF OCTOBER 2018 / 2ND KARTHIKA,
1940

WP(C).No. 34190 of 2018

PETITIONER/S:

DAILY EXPRESS
VAZHICHERRY WARD, ALAPPUZHA - 1, REPRESENTED
BY ITS DESIGNED PARTNER, MEENA KURUVILLA,
AGED 62 YEARS, W/O T.T. KURUVILLA, RESIDING
AT THOTTATHIL HOUSE, CULLEN ROAD, VAZHICHERRY
WARD, ALAPPUZHA - 1

BY ADV. SMT.S.SUJINI

W.P.(C). No. 34250 of 2018 & Con. cases

RESPONDENT/S:

- 1 THE ASSISTANT STATE TAX OFFICER
MOBILE SQUAD NO.2, STATE OST DEPARTMENT,
KOLLAM - 691 002.

- 2 COMMISSIONER OF KERALA
STATE GOODS AND SERVICE TAX DEPARTMENT,
OFFICE OF THE COMMISSIONER OF KERALA STATE
GOODS AND SERVICE TAX DEPARTMENT, TAX TOWER,
KARAMANA, THIRUVANANTHAPURAM.

- 3 STATE OF KERALA
THIRUVANANTHAPURAM-695001, REPRESENTED BY
IT'S SECRETARY TO TAXES.

OTHER PRESENT:

DR. THUSHARA JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.10.2018, ALONG WITH WP(C).34250/2018, WP(C).34217/2018, WP(C).34206/2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

[WP(C) 34250/2018 ,WP(C).34217/2018
WP(C).34206/2018 ,WP(C).34190/2018]

As the issue involved in all these writ petitions is similar, they are taken up for consideration together and disposed of by this common judgment.

W.P.(C). No. 34250 of 2018 & Con. cases

2. The petitioners are the transporters. When they had been carrying goods, the respondent State Tax Officer intercepted them and detained the vehicle. It is because the e-way bills the petitioners carried with the consignment did not contain the vehicle details. Though the vehicle and the goods detained, the petitioners filed these writ petitions. The petitioners sought, more or less, the following reliefs:

“(i) issue a writ of mandamus, thereby directing the 1st respondent to drop the proceedings against the petitioner pursuant to Exhibit P6 order.

(ii) issue any appropriate writ, order or direction to the 1st respondent thereby declaring that the non-filling up of Part-B, comes under the ambit of Section 126(1) of CGST Act, 2017 and not to be penalised u/s 129(1).

(iii) call for records leading to Exhibit P6 Order and P7 Notice, and quash the same by a writ of certiorari

(iv) Issue any appropriate writ, order or direction to the 1st respondent to permit the petitioner to release the goods and hand over the same to the consignee

(v) issue any appropriate writ, order or direction to the 1st respondent to consider Exhibit P8 representation and pass orders accordingly”.

3. The learned Division Bench of this Court in *Renji Lal*

W.P.(C). No. 34250 of 2018 & Con. cases

*Damodaran Vs. State Tax Officer*¹ has dealt with an identical issue.

4. Applying the ratio of that judgment, I direct that respondent authorities to release the petitioner's goods and vehicles on their "furnishing Bank Guarantee for tax and penalty found due and a bond for the value of goods in the form as prescribed under Rule 140(1) of the CGST Rules".

With the above direction I dispose of these writ petitions.

Sd/-

DAMA SESHADRI NAIDU

JUDGE

das

APPENDIX OF WP (C) 34250/2018

PETITIONER'S/S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE TAX INVOICE DATED
27.9.2018.

EXHIBIT P2 TRUE COPY OF THE E-WAY SLIP WITH
RESPECT TO THE CONSIGNMENT IN PART A
DATED 27.9.2018.

1 Judgment dated 06.08.2018 in W.A. No.1640 of 2018

W.P.(C). No. 34250 of 2018 & Con. cases

- EXHIBIT P3** TRUE COPY OF THE FORM GST MOV-01
NO.SCN/S.S10/7/2018 DATED 29.9.2018
ISSUED BY THE IST RESPONDENT.
- EXHIBIT P4** TRUE COPY OF THE FORM GST MOV-02,
NO.SCN/S S10/7/2018 DATED 29.9.2018
ISSUED BY THE IST RESPONDENT.
- EXHIBIT P5** TRUE COPY OF FORM GST MOV-04
NO.SCN/S/S S10/7/2018 DATED 29.9.2018
ISSUED BY THE IST RESPONDENT.
- EXHIBIT P6** TRUE COPY OF THE ORDER UNDER SECTION
129(1) OF THE CENTRAL GOODS AND
SERVICES TAX ACT, 2017 AND THE
STTE/UNION TERRITORY GOODS AND
SERVICES TAX ACT, 2017 IN FORM GST
MOV-06 NO.SCN/SS10/7/2018 DATED
29.9.2018 ISSUED BY THE IST
RESPONDENT.
- EXHIBIT P7** TRUE COPY OF THE NOTICE U/S 129(3) OF
THE CENTRAL GOODS AND SERVICES TAX
ACT, 2017 AND THE STATE/UNION
TERRITORY GOODS AND SERVICES TAX ACT,
2017 IN FORM GST MOV-07
NO.SCN/S10/7/2018 DATED 24.9.2018.
- EXHIBIT P8** TRUE COPY OF THE WRITTEN COMMUNICATION
DATED 6.10.2018, SENT BY THE
PETITIONER ADDRESSED TO THE IST
RESPONDENT.
- EXHIBIT P9** TRUE COPY OF THE PROOF OF REGISTERED
POST SENT TO THE IST RESPONDENT.

APPENDIX OF WP (C) 34217/2018

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE TAX INVOICE-
KR/18/1160 DATED 28/08/2018.
- EXHIBIT P2 TRUE COPY OF THE E-WAY SLIP GENERATED
WITH RESPECT TO THE CONSIGNMENT DATED
28/08/2018.
- EXHIBIT P3 TRUE COPY OF THE FORM GST MOV-01
NO.SCN/MOB/II/3/18-19 DATED 29/08/2018
ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P4 TRUE COPY OF THE FORM GST MOV-02,
NO.SCN/MOB/II/3/18-19 DATED 29/08/2018
ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P5 TRUE COPY OF FORM GST MOV-0,
NO.SCN/MOB/II/3/18-19 DATED 29/08/2018
ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P6 TRUE COPY OF THE NOTICE UNDER SECTION
129(1) OF THE CENTRAL GOODS AND
SERVICE TAX ACT, 2017 AND THE
STATE/UNION TERRITORY GOODS AND
SERVICES TAX ACT, 2017 IN FORM GST
MOV-06 SCN/MOB/II/3/18-19 DATED
29/08/2018 ISSUED BY THE 1ST
RESPONDENT.
- EXHIBIT P7 TRUE COPY OF THE NOTICE U/S 129(3) OF
THE CENTRAL GOODS AND SERVICES TAX
ACT, 2017 AND THE STATE/UNION
TERRITORY GOODS AND SERVICES TAX ACT,
2017 IN FORM GST MOV-07
SCN/MOB/II/3/18-19 DATED 29/08/2018.

W.P.(C). No. 34250 of 2018 & Con. cases

EXHIBIT P8 TRUE COPY OF THE WRITTEN COMMUNICATION
DATED 06/10/2018, SENT BY THE
PETITIONER ADDRESSED TO THE 1ST
RESPONDENT.

EXHIBIT P9 TRUE COPY OF THE PROOF OF REGISTERED
POST SENT TO THE 1ST RESPONDENT.

APPENDIX OF WP (C) 34206/2018

PETITIONER'S/S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE TAX INVOICE-B2B
NO.239 DATED 22/09/2018.

EXHIBIT P2 TRUE COPY OF THE E-WAYSLIP WITH
RESPECT TO THE CONSIGNMENT IN PART A
DATED 22/09/2018.

EXHIBIT P3 TRUE COPY OF THE FORM GST MOV-01
NO.2CN/S.SQ.2/3/2018 DATED 24/09/2018
ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P4 TRUE COPY OF THE FORM GST MOV-02,
NO.SCN/S.SQ.2/3/2018 DATED 24/09/2018
ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P5 TRUE COPY OF FORM GST MOV-04,
NO.SCN/S.SQ.2/3/2018 DATED 24/09/2018
ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P6 TRUE COPY OF THE NOTICE UNDER SECTION
129(1) OF THE CENTRAL GOODS AND
SERVICE TAX ACT, 2017 AND THE
STATE/UNION TERRITORY GOODS AND
SERVICES TAX ACT, 2017 IN FORM GST
MOV-06 NO.SCN/S.SQ.2/3/2018 DATED
24/09/2018 ISSUED BY THE 1ST
RESPONDENT.

W.P.(C). No. 34250 of 2018 & Con. cases

- EXHIBIT P7 TRUE COPY OF THE NOTIE U/S 129(3) OF THE CENTRAL GOODS AND SERVICE TAX ACT, 2017 AND THE STATE/UNION TERRITORY GOODS AND SERVICE TAX ACT, 2017 IN FORM GST MOV-07 NO.SCN/S.SQ.2/3/2018 DATED 24/09/2018.
- EXHIBIT P8 TRUE COPY OF THE WRITTEN COMMUNICATION DATED 06/10/2018, SENT BY THE PETITIONER ADDRESSED TO THE 1ST RESPONDENT.
- EXHIBIT P9 TRUE COPY OF THE PROOF OF REGISTERED POST SENT TO THE 1ST RESPONDENT.

APPENDIX OF WP (C) 34190/2018

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE TAX INVOICE -AA1432. DATED 18/09/2018.
- EXHIBIT P2 TRUE COPY OF THE E-WAY SLIP GENERATED WITH RESPECT TO THE CONSIGNMENT DATED 18/09/2018.
- EXHIBIT P3 TRUE COPY OF THE FORM GST MOV-01 NO.SCN/MOB/II/18/18-19 DATED 19/09/2018 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P4 TRUE COPY OF THE FORM GST MOV-02, NO.SCN/MOB/II/18/18-19 DATED 19/09/2018 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P5 TRUE COPY OF FORM GST MOV-04, SCN/MOB/II/18/18-19 DATED 19/09/2018 ISSUED BY THE 1ST RESPONDENT.

W.P.(C). No. 34250 of 2018 & Con. cases

- EXHIBIT P6** TRUE COPY OF THE NOTICE UNDER SECTION 129(1) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND THE STATE/UNION TERRITORY GOODS AND SERVICE TAX ACT, 2017 IN FORM GST MOV-06 SCN/MOB/II/18/18-19 DATED 19/09/2018 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P7** TRUE COPY OF THE NOTICE U/S.129(3) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 107 AND THE STATE/UNION TERRITORY GOODS AND SERVICE TAX ACT,2017 IN FORM GST MOV-07 SCN/MOB/II/18/18-19 DATED 19/09/2018.
- EXHIBIT P8** TRUE COPY OF THE WRITTEN COMMUNICATION DATED 06/10/2018, SENT BY THE PETITIONER ADDRESSED TO THE 1ST RESPONDENT.
- EXHIBIT P9** TRUE COPY OF THE PROOF OF REGISTERED POST SENT TO THE 1ST RESPONDENT.