

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

C.E.Appeal.No. 14 of 2015 ()

STAY ORDER NO.20745/2015 DATED 31.03.2015 AS MODIFIED BY
MISC. ORDER NO.20993/2015 DATED 16.6.2015 IN APPEAL
NO.ST/444/2012-DB PASSED BY THE CUSTOMS, EXCISE AND SERVICE
TAX APPELLATE TRIBUNAL, SOUTH ZONAL BENCH, BANGALORE

APPELLANT/APPELLANT:

K.SREEKUMAR
PROPRIETOR, QUILON CONSULTING ENGINEERS, GOKULAM
II FLOOR, BEACH ROAD, KOLLAM.

BY ADVS.SRI.K.N.SREEKUMARAN
SRI.P.D.UNNIKKANNAN NAIR
SMT.V.P.SEENA DEVI

RESPONDENT/RESPONDENT:

COMMISSIONER OF CENTRAL EXCISE
CUSTOMS AND SERVICE TAX, ICE BHAVAN, PRESS CLUB ROAD
TRIVANDRUM - 695 001.

R1 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CE BOARD

THIS CENTRAL EXICISE APPEAL HAVING COME UP FOR
ADMISSION ON 21-07-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

APPENDIX

APPELLANT'S ANNEXURES:

- ANNEXURE A : TRUE COPY OF THE ORDER NO.21/2011-ST
(COMMR) DATED 30.11.2011 OF THE COMMISSIONER
OF CENTRAL EXCISE, TRIVANDRUM.
- ANNEXURE B : TRUE COPY OF THE APPEAL DATED 15.3.2012
BEFORE THE CESTAT, BANGALORE.
- ANNEXURE C : TRUE COPY OF THE APPLICATION FOR WAIVER
FILED BEFORE THE CESTAT, BANGALORE ALONG
WITH ANNEXURE-B APPEAL.
- ANNEXURE D : TRUE COPY OF THE ORDER NO.20745/2015 DATED
31.03.2015 IN ORIGINAL OF THE CESTAT,
BANGALORE.
- ANNEXURE E : TRUE COPY OF THE STATEMENT OF CONTRACT
RECEIPTS FOR IN RESPECT OF NON-COMMERCIAL
CONSTRUCTION FILED BEFORE CESTAT.
- ANNEXURE F : TRUE COPY OF THE APPLICATION 28.05.2015 FOR
MODIFICATION OF ANN-D FILED BEFORE CESTAT.
- ANNEXURE G : TRUE COPY OF THE MISC.ORDER NO.20993/2015
DATED 16.06.2015 IN ORIGINAL OF THE CESTAT,
BANGALORE.
- ANNEXURE H : TRUE COPIES OF THE SUNDRY CREDITORS
STATEMENT AND BANK STATEMENT AS ON
15.07.2015 KEPT BY THE APPELLANT.

RESPONDENT'S ANNEXURES : NIL

//TRUE COPY//

P.A. TO JUDGE

smv

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

Central Excise Appeal No.14 of 2015

Dated this the 21st day of July, 2015

JUDGMENT

Antony Dominic,J.

Heard the learned counsel for the appellant and the learned Standing Counsel appearing for the respondent. In an appeal filed before the Tribunal, appellant filed an application for waiver of pre-deposit of the duty demanded. When that application was heard, counsel for the appellant made an offer that as against the demand of Rs.55,00,000/-, appellant would deposit Rs.20,00,000/-. This offer made by the appellant was accepted and the Tribunal passed Annexure-D order directing the appellant to deposit the offered amount of Rs.20,00,000/-, within 8 weeks and to report compliance on 4.6.2015. Subsequently, appellant sought review of that order and that application was rejected by the Tribunal by Annexure-G order. However, time for deposit was extended and the appellant was directed to report compliance on 21.07.2015. It is challenging this order, this appeal is filed.

2. From what we have stated, it is clear that the order passed by the Tribunal requiring deposit of Rs.20,00,000/- was passed acting upon the offer made by the counsel for the appellant. Once such an offer has been made and the same has been acted upon, there is absolutely no justification for the appellant to retract from the offer made. In such circumstances and considering the fact that the total amount demanded is Rs.55,00,000/-, we do not find any reason to interfere with the order impugned nor are we inclined to think that the direction to deposit Rs.20,00,000/- is an onerous one.

Therefore the appeal is dismissed but however the time for deposit will stand extended by four weeks from today and the appellant shall report compliance before the Tribunal on 25.08.2015.

Sd/-

**ANTONY DOMINIC
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

//true copy//

P.A. To Judge

smv