

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

RP.No. 809 of 2015 IN WP(C).10746/2010

AGAINST THE JUDGMENT IN WP(C) 10746/2010 of HIGH COURT OF KERALA
DATED 13.7.2015

REVIEW PETITIONER/PETITIONER IN WPC: -

BANERJI MEMORIAL CLUB,
ROUND NORTH, THRISSUR-680 001,
REPRESENTED BY ITS SECRETARY.

BY ADV. SRI. MILLU DANDAPANI

RESPONDENTS/RESPONDENTS IN WPC: -

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1. THE DEPUTY COMMISSIONER OF EXCISE,
THRISSUR-680 001.
 2. THE COMMISSIONER OF EXCISE,
KERALA, THIRUVANANTHAPURAM-695001.
 3. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF EXCISE, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.

BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 25-09-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

DMR/-

DAMA SESHADRI NAIDU, J.

R.P. No. 809 of 2015

Dated this the 25th day of September, 2015

ORDER

C.M. Appln. No. 313 of 2015

Delay condoned.

R.P. No. 809 of 2015

The learned counsel for the petitioner has submitted that the writ petition was dismissed on 13.07.2015 ostensibly on the representation of the learned counsel for the petitioner that nothing survived in the writ petition.

2. Today, the learned counsel has, however, submitted that in fact neither the counsel on record nor any other Advocate representing him has made a submission before this Court to have the writ petition dismissed. In elaboration, he has further submitted that may be inadvertently, while the learned counsel has made representation with regard to some other writ petition, this Court could have disposed of the present writ petition.

3. Be that as it may, the petitioner has gone on record that there was no request from its counsel to have the matter dismissed as infructuous. Evidently, this Court by oversight

could have dismissed the writ petition. Since no action of the Court is to cause any prejudice to the parties, I direct the restoration of the case to file.

4. At this juncture, the learned counsel for the petitioner has brought to my notice that on 29.03.2010, soon after filing of the writ petition, this Court, having *prima facie* been satisfied, issued an interim direction which was in force until the dismissal of the writ petition as infructuous inadvertently, though.

In the facts and circumstances, I further feel it just and necessary to restore the interim order granted on 29.03.2010 and accordingly I restore it.

Accordingly, Review Petition is allowed.

Post W.P. (C) No.10746/2010 in ten days.

DAMA SESHADRI NAIDU
JUDGE

DMR/-