

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 36 of 2015 ()

PETITIONER(S):

**POMSY FOOD PRODUCTS (P) LTD,
K.S. PURAM, VAVVAKAVU P.O.,
KOLLAM 691 010. REP. BY ITS GENERAL MANAGER.**

**BY ADVS.SRI.C.K.KARUNAKARAN
SRI.JOPHY POTTHEN KANDANKARY**

RESPONDENT(S):

**1. COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS AND SERVICE TAX (APPEALS),
C.R. BUILDING, I.S. PRESS ROAD, COCHIN 682 018.**

**2.THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE
AND SERVICE TAX,
KOLLAM DIVISION, VARINJAM TOWERS, RESIDENCY RD.,
KOLLAM 690 526.**

**3.THE SUPERINTENDENT OF CENTRAL EXCISE,
CUSTOMS AND SERVICE TAX, KAYAMKULAM RANGE,
GOWRI MAHAL, K.P. ROAD, KAYAMKULAM 790 506.**

**4.THE MANAGER, STATE BANK OF TRAVANCORE,
OACHIRA BR. G.K.BUILDINGS, OACHIRA P.O.,
KOLLAM DT. 690 526.**

**5.THE MANAGER, FEDERAL BANK LTD.,
KAYAMKULAM MAIN BR., K.P. ROAD,
KAYAMKULAM P.O., 690 502.**

**R1-R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTIL,SC,CB EX
R BY SRI.R.S.KALKURA, SC, SBT**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF ORDER NO.1, 2 AND 3/CE DATED 19.3.2014 ISSUED BY THE JOINT COMMISSIONER OF CENTRAL EXCISE, CUSTOMS AND SERVICE TAX, THIRUVANANTHAPURAM.

EXT.P2: COPY OF THE MEMORANDUM OF APPEAL DATED 18.6.2014.

EXT.P3: COPIES OF THE PETITIONS DATED 17.6.2014 FOR STAY AND DISPENSING WITH PRE-DEPOSIT.

EXT.P4: COPY OF THE 3RD RESPONDENT'S LETTER DATED 10.11.2014.

EXT.P5: COPY OF LETTER DATED 22.12.2014.

EXT.P6: COPY OF 3RD RESPONDENT'S LETTER DATED 22.12.2014.

EXT.P7: COPY OF NOTICE DATED 29.12.2014 FROM THE 2ND RESPONDENT.

EXT.P8: COPY OF NOTICE DATED 29.12.2014.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.36 OF 2015 (D)

Dated this the 5th day of January, 2015

J U D G M E N T

Petitioner is an assessee under the Central Excise Act. The assessment of the petitioner was completed by the Joint Commissioner of Central Excise, Customs and Service Tax, Thiruvananthapuram levying central excise duty on the petitioner vide Ext.P1 order. Against the said order, the petitioner has preferred Ext.P2 appeal and Ext.P3 stay petition before the 1st respondent Appellate Authority. The case of the petitioner in the writ petition is that even before considering Ext.P3 stay petition, the 2nd and 3rd respondents have initiated recovery steps, by way of Exts.P7 and P8 garnishee notices issued to the 4th and 5th respondents. The limited prayer in the writ petition is for a direction to the 1st respondent to consider and pass orders on Ext.P3 stay petition within a short period and to keep recovery steps pursuant to Exts.P7 and P8 pending in the meanwhile.

2. Heard Sri.Thomas Mathew Nellimoottil, the Standing Counsel appearing on behalf of respondents 1 to 3.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with a direction to the 1st respondent to consider and pass orders on Ext.P3 stay petition, preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be passed by the 1st respondent shall be a reasoned one. Recovery steps initiated through Exts.P7 and P8 notices shall be kept in abeyance till such time as the 1st respondent passes orders, as directed, in the stay petition, and communicates the same to the petitioner. It is made clear that the amount demanded in Exts.P7 and P8 notices shall be revised, if necessary, based on the orders to be passed by the 1st respondent in the stay petition.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp