

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 428 of 2015 (C)

PETITIONER(S):

M/S. CORDIAL DEVELOPERS,  
T.C.NO.9/2196, NARAYANA BHAVAN, KURUP LANE,  
SASTHAMANGALAM, THIRUVANANTHAPURA - 695 010,  
REPRESENTED BY ITS PARTNER.

BY ADV. SRI.G.ANANTHANARAYANAN.

RESPONDENT(S):

1. UNION OF INDIA,  
REPRESENTED BY REVENUE SECRETARY,  
MINISTRY OF FINANCE, NEW DELHI-110 001.
2. THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS (APPEALS),  
CR BUILDINGS, I.S. PRESS ROAD,  
THIRUVANANTHAPURAM - 695 001.
3. COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,  
ICE BHAVAN, PRESS CLUB ROAD, THIRUVANANTHAPURAM-695 001.
4. ADDITIONAL COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,  
ICE BHAVAN, PRESS CLUB ROAD, THIRUVANANTHAPURAM-695 001.
5. ASSISTANT COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,  
ST DIVISION, ICE BHAVAN, PRESS CLUB ROAD,  
THIRUVANANTHAPURAM-695 001.
6. SUPERINTENDENT OF CENTRAL EXCISE & CUSTOMS,  
ICE BHAVAN, PRESS CLUB ROAD, THIRUVANANTHAPURAM-695 001.

BY ADV. SRI.TOJAN J.VATHIKULAM, SC, C.B. EXCISE  
BY SRI.THOMAS MATHEW NELLIMOOTTIL, SC, CB EXCISE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

RVS.

APPENDIX

PETITIONER(S) ' EXHIBITS

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- EXT.P1 COPY OF THE PAPER BOOK OF THE APPEAL FILED BY THE PETITIONER IN RESPECT OF ORDER-IN-ORIGINAL NO.78/2011 ST (ADC) DATED 28/12/2011 BEFORE THE SECOND RESPONDENT.
- EXT.P2 COPY OF THE PAPER BOOK OF THE APPEAL FILED BY THE PETITIONER IN RESPECT OF ORDER-IN-ORIGINAL NO.54/2012 ST (AC) DATED 03/12/2014 BEFORE THE SECOND RESPONDENT.
- EXT.P3 COPY OF THE LETTER DATED 27/02/2012, ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER ACKNOWLEDGING THE RECEIPT OF THE APPEAL.
- EXT.P4 COPY OF THE LETTER DATED 18/01/2013, ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER ACKNOWLEDGING THE RECEIPT OF THE APPEAL.
- EXT.P5 COPY OF THE LETTER ISSUED BY THE 6TH RESPONDENT DATED 24/12/2014.
- EXT.P6 COPY OF THE CIRCULAR NO.967/01/2013 CX9 DATED 01/01/2013.

RESPONDENT(S) ' EXHIBITS :

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NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

**A.K.JAYASANKARAN NAMBIAR, J.**

.....  
**W.P.(C) No. 428 of 2015 (C)**  
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Dated this the 7<sup>th</sup> day of January, 2015

**JUDGMENT**

Against orders confirming demands of service tax and penalty on the petitioner, the petitioner preferred Exts.P1 & P2 appeals before the second respondent. The grievance of the petitioner in the writ petition is that even before considering the stay petitions, the respondents are taking steps to recover the amounts confirmed against the petitioner by the orders, against which the appeals have been preferred before the second respondent.

2. Heard Sri.Tojan J. Vathikulam, the learned standing counsel appearing for the respondents.

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 second respondent to consider and pass orders on the stay petitions, preferred by the petitioner before him, within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be passed by the

second respondent shall contain reasons for the decision arrived at by him.

Recovery steps, if any, initiated against the petitioner for realisation of the amounts confirmed against him by the orders, against which Exts.P1 & P2 appeals have been filed, shall be kept in abeyance till such time as the second respondent passes orders, as directed, in the stay petition, and communicates the same to the petitioner.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

AMV/07/01/