

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 2923 of 2015 (M)

PETITIONER :

**EUROTECH MARITIME ACADEMY,
XXXVIII/3492, VAKILS BUILDING, OPP. TVS KALOOR,
KOCHI-682 017, REPRESENTED BY ITS MANAGING TRUSTEE,
MR.BABU JOSEPH.**

**BY ADVS.SRI.ANIL D. NAIR
SRI.R.SREEJITH
SULEKHA BEEVI C
SMT.ROSIE ATHULYA JOSEPH
KUM.SOUMYA PRAKASH**

RESPONDENT :

**THE COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS AND SERVICE TAX,
COCHIN COMMISSIONERATE, C.R.BUILDING,
I.S.PRESS ROAD, COCHIN-682018.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 2923 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1: TRUE COPY OF THE SHOW CASUE NOTICE TO THE PETITIONER
DATED 23.4.2014.**
- EXHIBIT-P2: TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER DATED
17.7.2014.**
- EXHIBIT-P3: TRUE COPY OF THE ORDER IN ORIGINAL NO.4/2008/ST SERVICE TAX
DATED 5.6.2008.**
- EXHIBIT-P4: TRUE COPY OF THE NOTICE TO THE PETITIONER DATED 13.1.2015.**
- EXHIBIT-P5: TRUE COPY OF THE LETTER SUBMITTED BY THE PETITIONER DATED
20.1.2015.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 2923 of 2015 (M)

.....
Dated this the 2nd day of February, 2015

JUDGMENT

The petitioner, who has been served with Ext.P1 show cause notice, has filed a reply to the same before the respondent. The only apprehension of the petitioner in the writ petition is that the respondent may proceed to adjudicate the show cause notice without affording an opportunity to the petitioner to cross examine certain witnesses, whose statements have been relied upon by the respondent in the show cause notice. It is pointed out that, by way of Ext.P5 representation before the respondent, the petitioner has already voiced his apprehension in the matter before the respondent but he has not been favoured with a reply. On the other hand by Ext.P4 notice, the petitioner has been informed of the dates of personal hearing in the matter, which would suggest that the respondent does not propose to afford him any further opportunity for cross examination, and intends to proceed with the final hearing of the matter so as to pass an adjudication orders. It is for this reason that the writ petition has been filed seeking a direction to the respondent to permit the petitioner to cross examine the witnesses whose statements have been relied upon in the show cause notice.

2. I have heard Sri.Anil D.Nair, learned counsel for the petitioner

and Sri.Tojan J.Vathikulam, learned Standing counsel for the respondent.

On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I dispose the writ petition with a direction to the respondent to permit the petitioner to cross examine the witnesses, whose statements have been relied upon in the show cause notice issued to the petitioner, and affording an opportunity of hearing to the petitioner, prior to adjudicating the issue. The petitioner shall co-operate with the respondent in ensuring that the adjudication proceedings are finalised within a period of three months from the date of receipt of a copy of this judgment.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/02/02/