

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. 3163 OF 2015 (U)

PETITIONER(S) :

SHRI.K.S.ANIL KUMAR
PROPRIETOR, ASWATHY STUDIO AND COLOUR LAB
KAZHAKOOTTAM, TRIVANDRUM

BY ADVS.SMT.R.CHITRA
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 AND CUSTOMS
(APPEALS), C R BUILDINGS, I.S. PRESS ROAD
COCHIN - 682 018.

3. ADDITIONAL COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS
ICE BHAVAN PRESS CLUB ROAD
TRIVANDRUM - 695 001.

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

5. SUPERINTENDENT OF CENTRAL EXCISE AND CUSTOMS
ICE BHAVAN PRESS CLUB ROAD
TRIVANDRUM - 695 001.

R1-R5 BY SRI.RANJITH JACOB KOSHY, SC, CENTRAL BOARD OF EXCISE
R1-5 BY SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CENTRAL BOARD OF EXCISE

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

WP(C).NO. 3163 OF 2015 (U)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE STAY AND APPEAL OF THE APPEAL A NO.
36/ST/TVM/2011 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT-P2-TRUE COPY OF THE LETTER DATED 19/04/2011 ISSUED BY THE 2ND
RESPONDENT TO THE PETITIONER ACKNOWLEDGING THE RECEIPT OF THE APPEAL
A. NO. 36/ST/TVM/2011

EXHIBIT-P3-TRUE COPY OF THE LETTER DATED 17/12/2014 ISSUED BY THE
RESPONDENT NO.4 TO THE RESPONDENT NO. 5 INSTRUCTING TO PAY THE
SERVICE TAX DUE FROM THE PETITIONER.

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.3163 of 2015

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

J U D G M E N T

Against an order confirming a demand of service tax on the petitioner, he has filed Ext.P1 appeal and stay petition before the 2nd respondent. The apprehension of the petitioner is that the respondents will initiate coercive steps for recovery of the amounts confirmed against the petitioner, by the order against which the appeal has been preferred, pending disposal of the stay petition by the 2nd respondent.

2. I have heard Smt.Chitra R., the learned counsel for the petitioner and Sri.Ranjit Koshy, the learned Standing counsel for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:

- i. The 2nd respondent shall consider and pass orders on the stay application preferred by the petitioner within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Recovery steps for recovery of amounts confirmed against the petitioner, by the order against which Ext.P1 appeal has been filed, shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2nd respondent shall be a reasoned one advertent to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal/revision.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

