

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 3949 of 2015 (P)

PETITIONER(S):

**M/S.KMML LAPA CONSTRUCTIONS AND LABOUR CONTRACT
CO-OPERATIVE SOCIETY LTD., TITANIUM COMPLEX,
SANKARAMANGALAM
CHAVARA,
KOLLAM - 691 583 [REPRESENTED BY ITS SECRETARY].**

**BY ADVS.SRI.G.ANANTHANARAYANAN
SRI.B.RAVINDRAN NAIR
SMT.R.CHITRA**

RESPONDENT(S):

- 1. UNION OF INDIA REPRESENTED BY REVENUE SECRETARY,
MINISTR OF FINANCE, NEW DELHI - 110 001.**
- 2. THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS (APPEALS),
CR BUILDINGS, I S PRESS ROAD, COCHIN - 682 018.**
- 3. ASSISTANT COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
VARINJAM TOWERS, RESIDENCY ROAD, KOLLAM. 691 581**
- 4. THE ACCOUNTS OFFICER, M/S.KMML, SANKARAMANGALAM,
CHAVARA,
KOLLAM - 691 583.**

**R1-R4 BY ADV. SRI.RANJITH JACOB KOSHY, SC,
CENTRAL BOARD OF EXCISE**

R BY SMT.LATHA KRISHNAN

R BY SRI.THOMAS MATHEW NELLIMOOTTIL, SC, CB EX

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE APPEAL A NO 147/ST/TVM/2014 FILED BY THE PETITIONER IN RESPECT OF ORDER IN ORIGINAL NO 48/2011 ST DT.6.6.2011 ALONG WITH ARGUMENT NOTES FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P2: TRUE COPY OF THE LETTER DT 12-09-2011 FROM THE RESPONDENTS NO.2 CONFIRMING THE ACCEPTANCE OF THE APPEAL A NO. 147/2011/ST/TVM/2011.

EXHIBIT P3: TRUE COPY OF THE NOTICE DT 15-01-2015, ISSUED BY THE RESPONDENT NO 3 TO THE RESPONDENT NO 4 UNDER SECTION 87 (B) OF CHAPTER V OF FINANCE ACT, 1994 BY THE 3RD RESPONDENT TO THE 4TH RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE LETTER DATED 4.2.2015 SEEKING FOR EARLY HEARING OF APPEAL A NO.147/2011/ST/TVM/2011.

EXHIBIT P5: TRUE COPY OF THE JUDGMENT DELIVERED BY THE HON'BLE HIGH COURT OF KERALA IN WPC NO 764 OF 2015(U) ON 09-01-2015.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.3949 OF 2015 (P)

Dated this the 9th day of February, 2015

J U D G M E N T

Against the orders confirming a demand of central excise duty and penalty on the petitioner, the petitioner has preferred Ext.P1 appeal before the 2nd respondent along with a stay petition. The grievance of the petitioner in the writ petition is that even before passing final orders in the appeal, after the same was heard by the 2nd respondent on 05.02.2015, recovery steps are sought to be initiated against the petitioner for recovery of the amounts confirmed against him by the order, against which Ext.P1 appeal was filed.

2. I have heard Sri.G.Ananthanarayanan, the learned counsel appearing on behalf of the petitioner as also Sri.Ranjit J. Koshy, the learned Standing counsel appearing on behalf of the respondents.

3. 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 the following directions:

(i) There will be a direction to the 2nd respondent to pass final orders on Ext.P1 appeal within a period of two months from the date of receipt of a copy of this judgment.

(ii) It is made clear that, pending passing of final orders on Ext.P1 appeal, and communicating the same to the petitioner, the 2nd respondent shall ensure that no recovery or coercive steps are initiated or continued against the petitioner, for realisation of the amounts due under the order against which Ext.P1 appeal is filed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp