

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 4529 of 2015 (M)

PETITIONER(S):

**SAJAN P.VASUDEV, AGED 40 YEARS,
PROPRIETOR, SUN POWER TECHNOLOGIES,
49/76, MYTHRI BUILDINGS, ELAMAKKARA P.O.,
KOCHI-682 026.**

**BY ADVS.SRI.C.ANILKUMAR (KALLESSERIL),
SRI.C.Y.VINOD KUMAR.**

RESPONDENT(S):

- 1. SUPERINTENDENT OF CENTRAL EXCISE,
SERVICE TAX DIVISION, CENTRAL EXCISE BHAVAN,
KATHRIKKADAVU, KOCHI-682 017.**
- 2. THE BRANCH MANAGER,
SOUTH INDIAN BANK, ELAMAKKARA BRANCH,
POTTAKUZY, KOCHI-682 017.**

**R1 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC.
ADV. SRI.SAIBY JOSE KIDANGOOR.
R2 BY ADV. SRI.K.K.JOHN, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE CERTIFICATE OF REGISTRATION DATED 12/07/2013
ISSUED BY THE COMMERCIAL TAXES DEPARTMENT,
GOVERNMENT OF KERALA.
- EXT.P2 COPY OF THE CERTIFICATE DATED 18/01/2013 ISSUED BY
DEPARTMENT OF INDUSTRIES, GOVERNMENT OF KERALA.
- EXT.P3 COPY OF THE CERTIFICATE DATED 04/11/2010 ISSUED BY
CENTRAL BOARD OF EXCISE AND CUSTOMS.
- EXT.P4 COPY OF THE DECLARATION DATED NIL SUBMITTED BY THE
PETITIONER BEFORE THE FIRST RESPONDENT.
- EXT.P5 COPY OF THE LETTER DATED 05/02/2014 ISSUED BY THE
FIRST RESPONDENT TO THE PETITIONER.
- EXT.P6 COPY OF THE REPRESENTATION DATED 17/12/2014 SUBMITTED
BY THE PETITIONER BEFORE THE FIRST RESPONDENT.
- EXT.P7 COPY OF THE COMMUNICATION DATED 08/01/2015 RECEIVED BY
THE PETITIONER FROM THE SECOND RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.4529 of 2015 (M)
.....

Dated this the 12th day of February, 2015

JUDGMENT

The petitioner, who is an assessee to Service Tax, is aggrieved by the recovery action initiated by the 1st respondent for recovery of the amounts confirmed against him by adjudication orders passed under the Finance Act, 1994, as amended. It is not in dispute that against the orders passed confirming the demand of service tax, the petitioner has not preferred any further appeal and the said orders have become final.

2. The limited prayer of the petitioner in the writ petition is for the grant of installments to discharge the total liability of Rs.6,42,405/- together with accrued interest and other charges that is due from him to the Central Excise Department. It is pointed out that pursuant to the directions issued by the 1st respondent to the 2nd respondent, the latter has issued orders freezing the account of the petitioner with the 2nd respondent Bank. It is under these circumstances that the petitioner has approached this Court through the present writ petition.
3. I have heard Sri.C.Anilkumar Kaleesseril, learned counsel for the petitioner, Sri.Thomal Mathew Nellimoottil, learned Standing counsel for the 1st respondent and Sri.K.K.John, learned standing counsel for the 2nd respondent.
4. On a consideration of the facts and circumstances of the case as also

the submissions made across the Bar, and in particular the plea of financial hardship urged by the petitioner, I dispose the writ petition with the following directions :

(i) If the petitioner pays the total outstanding dues of Rs.6,42,405/- together with accrued interest and other charges in six equal and successive monthly installments commencing from 01.03.2015; then, the recovery proceedings for recovery of the service tax amounts due from him for the assessment years 2011 - 2012 and 2012 - 2013 shall be kept in abeyance.

(ii) On the petitioner paying the first installment as directed, the respondents shall lift the attachment over the Bank account of the petitioner. Thereafter, if the petitioner defaults in any one installment, then it shall be open to the respondents to continue with the recovery steps initiated against him from the stage where it stands now.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/12/02/