IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 4662 of 2015 (G)

PETITIONER:

FELIX BABU, ANNASLAND,
KARITHURU PUTHENTHURU,
NEENDAKARA, KOLLAM DISTRICT.

BY ADVS.SRI.R.SUDHEESHKUMAR
SRI.SUNIL KUMAR A.G

RESPONDENT(S):
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1. **UNION OF INDIA,**
   REPRESENTED BY THE SECRETARY TO FINANCE,
   MINISTRY OF FINANCE, NEW DELHI-110004.

2. **COMMISSIONER OF CENTRAL EXCISE,**
   CUSTOMS AND SERVICE TAX, TRIVANDRUM,
   T.C.NO.26/334 (1 & 2), I.C.E.BHAVAN,
   PRESS CLUB ROAD, TRIVANDRUM-695001.

BY SRI.THOMAS MATHEW NELLIMOOTTIL, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-02-2015 ALONG WITH WPC. 4674/2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 4662 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1 : TRUE COPY OF THE ORDER DATED 11.11.2014 IN MISC ORDER NO.22957-22961/2014 IN CUSTOMS, EXCISE & SERVICE TAX APPELLAT TRIBUNAL SOUTH ZONAL BENCH, BANGALORE.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) Nos.4662 & 4674 of 2015

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Dated this the 20th day of February, 2015

JUDGMENT

In both these writ petitions, the petitioners impugn Ext.P1 conditional orders of stay that were passed by the Customs, Excise & Service tax Appellate Tribunal, Bangalore.

2. On a perusal of the stay orders that are impugned as Ext.P1 in both these cases, it is seen that, the Appellate Tribunal has recorded a finding that, in the appeals filed by the petitioners, there was no serious challenge to the liability to service tax and interest that was levied on the petitioners. The petitioners in their appeals had only contended that, the first appellate authority had passed its order beyond the period of six months and to that extent had acted beyond its jurisdiction.

3. On a consideration of Ext.P1 order in both these writ petitions, I do not see any irregularity in the exercise of discretion by the Appellate Tribunal. In that view of the matter, I am not inclined to interfere with the said orders in this proceedings under Article 226 of the Constitution of India. Resultantly, the writ petitions in their challenge against Ext.P1 order passed by the appellate tribunal fail, and are accordingly dismissed.

The learned counsel for the petitioners would submit that, the time granted to comply with the directions in Ext.P1 order is only up to 19.02.2015, and the petitioners have been called upon to remit the entire amount of service tax, together with accrued interest as demanded by the lower authority. Taking into account the plea of financial hardship urged on behalf of the petitioner, I extend the time for compliance with the directions in Ext.P1 order of the Tribunal till 31.03.2015. Save for this limited modification, Ext.P1 order, that is impugned in both these writ petitions, is not otherwise interfered with.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/20/02/