

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 4681 of 2015 (I)

PETITIONER(S):

**THE POPULAR VEHICLES & SERVICES LTD.,
INDUSTRIAL ESTATE, KALLIMEL P.O.,
MAVELIKKARA-690 509, REPRESENTED BY ITS
CHIEF MANAGER (ACCOUNTS) (IN CHARGE)
OF THE POPULAR VEHICLES & SERVICES LTD.,
ANTONY. V.V.**

**BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR,
SRI.P.GOPINATH MENON,
SRI.P.BENNY THOMAS,
SRI.K.JOHN MATHAI,
SRI.JOSON MANAVALAN,
SRI.KURRYAN THOMAS.**

RESPONDENT(S):

- 1. UNION OF INDIA,
REPRESENTED BY ITS REVENUE SECRETARY,
MINISTRY OF FINANCE, NEW DELHI-110 004.**
- 2. THE COMMISSIONER OF CENTRAL EXCISE (APPEALS),
CENTRAL REVENUE BUILDING, I.S. PRESS ROAD,
COCHIN-682 018.**
- 3. THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS & SERVICE TAX, KOLLAM DIVISION,
VARINJAM TOWERS, RESIDENCY ROAD, KOLLAM-691 001.**
- 4. THE COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS & SERVICE TAX, P.B. NO.13,
ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM-695 015.**
- 5. THE SUPERINTENDENT OF CENTRAL EXCISE AND
SERVICE TAX, KAYAMKULAM RANGE-I, KOLLAM-691 001.**
- 6. STATE BANK OF TRAVANCORE,
KOCHALUMMOODU BRANCH-70449,
KANNIMEL P.O., MAVELIKKARA-690 570,
REPRESENTED BY ITS BRANCH MANAGER.**

WP(C).No. 4681 of 2015 (I)

**7. THE CENTRAL BOARD OF EXCISE AND CUSTOMS,
NORTH BLOCK, RASHTRAPATI BHAWAN,
DEFENCE HQ, NEW DELHI-110 011.**

**R1 TO R5 & R7 BY ADV. SRI.JOHN VARGHESE,
SRI.THOMAS MATHEW NELLIMOOTTIL,SC.
R6 BY ADV. SRI.R.S.KALKURA, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ORDER IN ORIGINAL NO.58/2011-ST DATED 26/07/2011
ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXT.P1A COPY OF THE ORDER IN ORIGINAL NO.39/2013-ST(AC)
DATED 31/10/2013 ISSUED BY THE 3RD RESPONDENT
TO THE PETITIONER.
- EXT.P2 COPY OF THE APPEAL NO.162/ST/TVM/2011 FILED BY THE
PETITIONER AGAINST ORDER IN ORIGINAL NO.58/2011-ST
BEFORE THE 2ND RESPONDENT DATED 24/10/2011
(WITHOUT ANNEXURES).
- EXT.P2A COPY OF THE APPEAL NO.1/ST/TVM/2014 FILED BY THE
PETITIONER AGAINST ORDER IN ORIGINAL NO.39/2013-ST(AC)
BEFORE THE 2ND RESPONDENT DATED 01/01/2014
(WITHOUT ANNEXURES).
- EXT.P3 COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DATED 24/10/2011 ALONG WITH
EXT.P2 APPEAL.
- EXT.P3A COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DATED 01/01/2014 ALONG WITH
EXT.P2A APPEAL.
- EXT.P4 COPY OF THE NOTICE NO.C. NO.IV/16/67/2014-ST.TECH. PT.
DATED 20/01/2015 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

K. VINOD CHANDRAN, J.
=====

W.P.(C) No.4681 of 2015 - T
=====

Dated this the 13th day of February, 2015

J U D G M E N T

Exts.P1 and P1(a) are assessment orders passed against the petitioner under the Finance Act, 1994, levying service tax interest and penalty. A demand was also issued by was of Ext.P4, which initiated garnishee proceedings against the funds of the petitioner lying with the 6th respondent Bank. The petitioner is said to be have filed Exts.P2 and P2(a) appeals along with stay petitions at Exts.P3 and P3(a). The petitioner contends that the initiation of garnishee proceedings, when even the stay petitions are not considered is illegal.

2. In such circumstance, there shall be a direction to the 2nd respondent before whom the appeals and the stay petitions are pending, to consider the stay applications within a period of one month and there shall be

no transfer of amounts attached under Ext.P4 till such stay petitions are considered and orders passed thereon. However, the attachment made would continue since, the appeals itself were filed respectively in 2011 and 2014 and the petitioner had not moved for consideration of stay applications at any time; before this writ petition. On orders being passed in the stay applications, the recovery and attachment shall depend upon such orders.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge