

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No.5014 of 2015 (B)

PETITIONER:

**M/S.KERALA TRAVELS INTERSERVE LTD.,
LMS BUILDING,MUSEUM JUNCTION,
THIRUVANANTHAPURAM-695033,
REPRESENTED BY ITS AUTHORISED SIGNATORY
S.VIJAYAKUMAR,DIRECTOR.**

BY ADV. SRI.JOSE JACOB

RESPONDEN NO.1 TO 5:

- 1. COMMISSIONER OF CENTRAL & CUSTOMS,
I.C.NO.26/34,PRESS CLUB ROAD,I.C.E.BHAVAN,
THIRUVANANTHAPURAM-695001.**
- 2. JOINT COMMISSIONER OF CENTRAL EXCISE,
I.C.NO.26/34,PRESS CLUB ROAD,I.C.E.BHAVAN,
THIRUVANANTHAPURAM-695001.**
- 3. COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS & SERVICE TAX (APPEALS),
CENTRAL REVENUE BUILDING,
I.S.PRESS ROAD,KOCHI-682018,KERALA.**
- 4. SUPERINTENDENT SERVICE TAX RANGE B,
3RD FLOOR,PRESS CLUB ROAD,I.C.E.BHAVAN,
THIRUVANANTHAPURAM-695001.**
- 5. ASSISTANT COMMISSIONER,SERVICE TAX DIVISION,
I.C.26/34,PRESS CLUB ROAD,I.C.E.BHAVAN,
THIRUVANANTHAPURAM-695001.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1:TRUE COPY OF ORDER -IN-ORIGINAL NO.38/2010 ST(JC) 14.10.2010.
- EXT.P1(a):TRUE COPY OF ORDER-IN-ORIGINAL NO.35/2011 -ST(AC) 14.12.2011.
- EXT.P1(b):TRUE COPY OF ORDER -IN-ORIGINAL NO.44/2012-ST(AC) 25.09.2012.
- EXT.P1(c):TRUE COPY OF ORDER-IN-ORIGINAL NO.16/2013-ST(AC)
DATED 25.04.2013.
- EXT.P1(d):TRUE COPY OF ORDER-IN-ORIGINAL NO.25/2013-ST(AC)
DATED 18.06.2013.
- EXT.P2:TRUE COPY OF ACKNOWLEDGMENT OF APPEAL FILED AGAINST
OIO 38/2010-ST(JC) 01-02-2011.
- EXT.P2(a):TRUE COPY OF ACKNOWLEDGMENT OF APPEAL FILED AGAINST
OIO 35/2011-ST(JC) 30-03-2012.
- EXT.P2(b):TRUE COPY OF ACKNOWLEDGMENT OF APPEAL FILED AGAINST
OIO 344/2012-ST(AC) 27-11-2012.
- EXT.P2(c):TRUE COPY OF ACKNOWLEDGMENT OF APPEAL FILED AGAINST
OIO 16/2013-ST(AC) 23-07-2013.
- EXT.P2(d):TRUE COPY OF ACKNOWLEDGMENT OF APPEAL FILED AGAINST
OIO 25/2013-ST(AC) 19-08-2013.
- EXT.P3:TRUE COPY OF THE RECOVERY NOTICE BETWEEN THE DEPARTMENT
AND PETITIONER 11.02.2015.
- EXT.P4:TRUE COPY OF THE STAY APPLICATION FILED AGAINST OIO 38/2010-ST
(JC) 13.1.2011.
- EXT.P4(a):TRUE COPY OF THE STAY APPLICATION FILED AGAINST OIO 35/2011-
ST(AC). 22.11.2012.
- EXT.P4(b):TRUE COPY OF THE STAY APPLICATION FILED AGAINST OIO 44/2012-
ST (AC) 23.11.2012.
- EXT.P4(c):TRUE COPY OF THE STAY APPLICATION FILED AGAINST OIO 16/2013-
ST(AC) 25.6.2013.
- EXT.P4(d):TRUE COPY OF THE STAY APPLICATION FILED AGAINST OIO 25/2013-
ST (AC) 17.8.2013.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.5014 of 2015 (B)

.....
Dated this the 24th day of February, 2015

JUDGMENT

Against Ext.P1 series of assessment orders, confirming a demand of service tax and penalty on the petitioner, the petitioner preferred Ext.P2 appeals and Ext.P4 series of stay petitions before the 3rd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed against the petitioner by Ext.P1 series of assessment orders.

2.I have heard Sri.Jose Jacob, learned counsel appearing for petitioner and Sri.T.M.Nellimoottil, learned Standing counsel for the respondents.

3.On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with a direction to the 3rd respondent to consider and pass orders on Ext.P4 series of stay petitions, preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be passed by the 3rd respondent shall contain reasons for the decision arrived at by him.

Recovery steps for recovery of the amounts confirmed against the petitioner by Ext.P1 series of assessment orders shall be kept in abeyance till such time as the 3rd respondent passes orders, as directed, in Ext.P4 series of stay petitions, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/24/02/