

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. 5379 of 2015 (V)

PETITIONER:

**M/S.FUTURE FOUNDATION PRIVATE LTD,
FUTURE HOUSE, TEMPLE ROAD,
SASTHAMANGALAM,
THIRUVANANTHAPURAM - 695 010,
REPRESENTED BY ITS MANAGING DIRECTOR,
P.HARIKUMAR.**

**BY ADVS.SRI.G.SUBRAMANIAN
SRI.SAJI VARGHESE KAKKATTUMATTATHIL**

RESPONDENT(S):

- 1. JOINT COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS & SERVICE TAX, P.B.NO.13, ICE BHAVAN,
PRESS CLUB ROAD, THIRUVANANTHAPURAM - 695 001.**
- 2. COMMISSIONER OF CENTRAL EXCISE (APPEALS),
CENTRAL REVENUE BUILDING,
I.S.PRESS ROAD, KOCHI - 682 018.**
- 3. SUPERINTENDENT, SERVICE TAX RANGE B,
OFFICE OF THE SUPERINTENDENT AND CENTRAL
EXCISE SERVICE TAX GROUP B, 3RD FLOOR,
P.B.NO.13, ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM - 695 001.**

**BY SRI.TOJAN J.VATHIKULAM,SC
BY SRI.THOMAS MATHEW NELLIMOOTTIL,SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 :** TRUE COPY OF THE ORDER IN ORIGINAL ISSUED BY THE
1ST RESPONDENT DATED 21.1.2011.
- EXT.P2 :** TRUE COPY OF THE CIRCULAR DATED 29.1.2009 ISSUED BY THE
MINISTRY OF FINANCE.
- EXT.P3 :** TRUE COPY OF THE APPEAL FILED UNDER SECTION 85 OF THE
FINANCE ACT, 1994.
- EXT.P4 :** STAY PETITION MOVED BY THE PETITIONER ALONG WITH THE
APPEAL.
- EXT.P5 :** TRUE COPY OF THE ORDER DATED 19.3.2012.
- EXT.P6 :** TRUE COPY OF THE APPEAL CHALLENGING EXHIBIT P5 ORDER.
- EXT.P7 :** STAY APPLICATION MOVED BY THE PETITIONER ALONG WITH
EXHIBIT P6.
- EXT.P8 :** TRUE COPY OF THE LETTER BEARING NO.9308/2014
DATED 19.12.2014.
- EXT.P9 :** TRUE COPY OF THE LETTER SUBMITTED BY THE PETITIONER
DATED 27.12.2014.
- EXT.P10 :** TRUE COPY OF THE SAID LETTER BEARING NO.136/2015
DATED 11.2.2015.
- EXT.P11 :** TRUE COPY OF THE ORDER OF THE TRIBUNAL SUO MOTO MISCE.
ORDER NO.25433 OF 2013 DATED 2.4.2013.
- EXT.P12 :** TRUE COPY OF THE JUDGMENT DATED 2.12.2013 IN WP(C)NO.29495
OF 2013 OF THE HON'BLE HIGH COURT OF KERALA.

RESPONDENT'S EXHIBITS:

- NILAMBUR

//TRUE COPY/

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5379 OF 2015 (V)

Dated this the 20th day of February, 2015

J U D G M E N T

Against Exts.P1 and Ext.P5 orders passed against the petitioner confirming a demand of service tax, the petitioner has preferred Exts.P3 and P6 appeals and Exts.P4 and P7 stay petitions before the 2nd respondent. It is the case of the petitioner that even prior to considering the stay petitions, recovery steps are sought to be pursued for recovery of the amounts confirmed by Exts.P1 and P5 orders.

2. I have heard Sri.G.Subramanian, the learned counsel appearing for the petitioner as also Sri.Tojan J. Vathikulam, the learned Standing counsel appearing for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I dispose the writ petition with the following directions:

1. The 2nd respondent shall consider and pass orders on Exts.P4 and P7 stay petitions within a period of two

months from the date of receipt of a copy of this judgment, after hearing the petitioner.

2.Recovery steps for recovery of amounts confirmed against petitioner by Exts.P1 and P5 orders shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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