

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. 5390 of 2015 (W)

PETITIONER(S):

**SRI R.S KUMAR, AGED 42 YEARS,
T.C.27/1733 (1), VANCHIYOOR,
TRIVANDRUM - 695 035.**

**BY ADVS.SMT.R.CHITRA
SRI.B.RAVINDRAN NAIR**

RESPONDENT(S):

**1.UNION OF INDIA,
REPRESENTED BY REVENUE SECRETARY,
MINISTRY OF FINANCE, NEW DELHI - 110001.**

**2.THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS (APPEALS),
CR BUILDINGS, I S PRESS ROAD, COCHIN - 681 018.**

**3.COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD, TRIVANDRUM - 695 001.**

**4.JOINT COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD, TRIVANDRUM - 695 001.**

**5.SUPREINTENDENT OF CENTRAL EXCISE & CUSTOMS,
SERVICE TAX RANGE B, 3RD FLOOR, ICE BHAVAN,
PRESS CLUB ROAD, TRIVANDUM - 01.**

**R BY SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX
R BY SRI.RAJIT J. KOSHY, SC.**

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

W.P.(C).NO.5390/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE APPEAL AND STAY PETITION FILED BY THE PETITIONER IN RESPECT OF ORDER-IN-ORIGINAL NO.43/2011-ST (JC) DT.21.6.2011 BEFORE THE SECOND RESPONDENT.

EXT.P2: COPY OF THE LETTER DT. 29.5.2012, ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

EXT.P3: COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT DT.12.2.2015 TO THE PETITIONER.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5390 OF 2015 (W)

Dated this the 20th day of February, 2015

J U D G M E N T

Against an order confirming a demand of service tax on the petitioner, he has filed Ext.P1 appeal and stay petition before the 2nd respondent. The apprehension of the petitioner is that the respondents will initiate coercive steps for recovery of the amounts confirmed against the petitioner, by the order against which the appeal has been preferred, pending disposal of the stay petition by the 2nd respondent.

2. I have heard Smt.Chitra R., the learned counsel for the petitioner and Sri.Rajit J. Koshy, the learned Standing counsel for the respondents.

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:

- i. The 2nd respondent shall consider and pass orders on the stay application preferred by the petitioner within

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

ii. Recovery steps for recovery of amounts confirmed against the petitioner, by the order against which Ext.P1 appeal has been filed, shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2nd respondent shall be a reasoned one adverting to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal/revision.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp