

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 5731 of 2015 (N)

PETITIONER(S):

**M/S. BEACON PROJECTS PVT. LTD.,
G-4, GAAN ENCLAVE, VAZHUTHACAD,
THIRUVANANTHAPURAM - 695 014.**

BY ADV. SRI.PRATHAP PILLAI

RESPONDENT(S):

- 1. UNION OF INDIA,
REPRESENTED BY REVENUE SECRETARY,
MINISTRY OF FINANCE, NEW DELHI - 110 001.**
- 2. THE COMMISSIONER OF CENTRAL EXCISE &CUSTOMS (APPEALS),
C.R BUILDINGS, I.S. PRESS ROAD, NEW DELHI - 110 001.**
- 3. COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM-695 001.**
- 4. JOINT COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM-695 001.**
- 5. SUPERINTENDENT OF CENTRAL EXCISE AND CUSTOMS,
SERVICE TAX GROUP A, ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM - 695 001.**

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 5731 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1- COPY OF THE CIRCULAR NO. 151/02/2012-ST DATED 10/02/2012.

**EXHIBIT-P2- COPY OF THE STAY APPLICATION ALONG WITH APPEAL FILED BY THE
PETITIONER TO RESPONDENT NO.2**

EXHIBIT-P3- COPY OF THE LETTER NO. 54/ST/TVM/2014 DATED 24/04/2014.

EXHIBIT-P4- COPY OF THE ORDER IN ORIGINAL NO. 58/2013/2013-14 ST (ADC)

EXHIBIT-P5- COPY OF THE APPEAL IN 379/2013 DATED 10/02/2013.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.5731 of 2015

.....
Dated this the 23rd day of February, 2015

JUDGMENT

Against an order confirming a demand of service tax and penalty on the petitioner, the petitioner had preferred Ext.P2 appeal and stay petition before the 2nd respondent. The grievance of the petitioner in the writ petition is that even before considering the stay petition, the respondents are resorting the coercive steps for recovery of the amounts confirmed against the petitioner by the order against which the appeal has been filed.

2. I have heard Sri.Prathap Pillai, the learned counsel for the petitioner and Sri.Thomas Mathew Nellimoottil, the learned Standing counsel for Central Board of Excise and customs.

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:

- i. The 2nd respondent shall consider and pass orders on the stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps for recovery of the amounts confirmed against the petitioner, by the order against which Ext.P2 appeal has been filed, shall be kept in abeyance till such time as 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 advertent to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

