

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. 5732 of 2015 (N)

PETITIONER(S):

**M/S SOORYA PRABHA HOTELS PVT. LTD.,
T.C. NO. 4/248(2), GNRA - A 18, GOKUL ROAD,
KAWADIAR, THIRUVANANTHAPURAM - 695 003,
REPRESENTED BY MANAGING DIRECTOR, K.P. MOHAN.**

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 AND CUSTOMS (APPEALS),
CR BUILDINGS, I.S. PRESS ROAD, COCHIN - 682 018.**
- 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
SRI.RENJITH J. KOSHY, SC**

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

msv/

WP(C).No. 5732 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1- COPY OF THE SHOW CAUSE NOTICE DATED 01/07/2011.

EXHIBIT-P2- COPY OF THE ORDER-IN-ORIGINAL NO. 03/2013 DATED 28/03/2013.

EXHIBIT-P3- COPY OF THE APPEAL DATED 07/05/2013.

EXHIBIT-P4- COPY OF THE LETTER NO. 39/ST/TVM/2013 DATED 14/05/2013.

EXHIBIT-P5- COPY OF THE DEMAND NOTICE NO. OC NO. 74/2015 DATED 11/02/2015.

**EXHIBIT-P6- COPY OF THE APPEAL AND STAY APPLICATION APPEAL TO THE
COMMISSIONER OF CENTRAL EXCISE.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5732 OF 2015 (N)

Dated this the 24th day of February, 2015

J U D G M E N T

Against Ext.P2 order-in-original confirming a demand of service tax and penalty on the petitioner, the petitioner has preferred Ext.P6 appeal and a stay petition before the 2nd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps have been taken by the respondents for recovery of the amounts confirmed against the petitioner by Ext.P2 order.

2. Heard Sri.Prathap Pillai, the learned counsel appearing for the petitioner and Sri.Thomas Mathew Nellimoottil, 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 the stay petition filed by the petitioner against Ext.P2 order, 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 pursuant to Ext.P2 order shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

3. The order to be passed by the 2nd respondent shall be a reasoned one adverting to the contentions of the petitioner .

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp