

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.5779 of 2015 (V)

PETITIONER:

**M/S.FAVOURITE CONSTRUCTIONS PVT.LTD,
T.C NO.26/2469, STATUE,GENERAL HOSPITAL ROAD,
TRIVANDRUM-695 001,(REPRESENTED BY MANAGING DIRECTOR)**

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

RESPONDENTS:

- 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-682 018.**
- 3. COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN,PRESS CLUB ROAD,TRIVANDRUM-695 001.**
- 4. ADDITIONAL COMMISSIONER OF CENTRAL EXCISES & CUSTOMS,
ICE BHAVAN,PRESS CLUB ROAD,TRIVANDRUM-695 001.**
- 5. SUPERINTENDENT OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN,PRESS CLUB ROAD,TRIVANDRUM-01.**

**R1-R5 BY SRI.TOJAN J.VATHIKULAM,SC,C.B. EXCISE
BY SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EXCISE**

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

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WP(C).No.5779 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT-P1:TRUE COPY OF THE APPEAL AND STAY PETITION FILED BY THE
PETITIONER BEFORE THE SECOND RESPONDENT.**

**EXHIBIT-P2:TRUE COPY OF THE LETTER DT 06/06/2012 ISSUED BY THE
SECOND RESPONDENT TO THE PETITIONER ACKNOWLEDGING THE
RECEIPT OF THE APPEAL.**

**EXHIBIT-P3:TRUE COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT
DT 16/02/2015.**

**EXHIBIT-P4:TRUE COPY OF THE JUDGMENT DELIVERED BY THE HONOURABLE
HIGH COURT OF KERALA IN W.P © NO.3163 OF 2015(U).**

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.5779 of 2015 (V)

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

JUDGMENT

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.R.Chitra, the learned counsel for the petitioner and Sri.Thomas Mathew Nellimoottil, the learned standing counsel 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 :

(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

AMV/24/02/