

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.5786 of 2015 (W)

PETITIONER:

**SOUTHERN INVESTMENTS P LTD,
JAWAHAR NAGAR,KOWDIAR,THIRUVANANTHAPURAM,
REPRESENTED BY ITS AUTHORISED SIGNATORY,
MRS.CRESSY SURESH.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD**

RESPONDENTS:

- 1. COMMISSIONER OF CENTRAL EXCISE (APPEALS),
CR BUILDINGS,I.S.PRESS ROAD,COCHIN 682 018.**
- 2. JOINT COMMISSIONER,
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE,
P.B. NO.13,ICE BHAVAN,PRESS CLUB ROAD,
THIRUVANANTHAPURAM - 695 001.**
- 3. SUPERINTENDENT,SERVICE TAX RANGE B,
3RD FLOOR,ICE BHAVAN,PRESS CLUB ROAD,
THIRUVANANTHAPURAM - 695 001.**

**R1-R3 BY SRI.TOJAN J.VATHIKULAM,SC,C.B. EXCISE
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:**

pk

WP(C).No.5786 of 2015 (W)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1-A TRUE COPY OF THE ORDER DATED 26/05/2011.

EXHIBIT-P2-TRUE COPY OF THE MEMORANDUMOF APPEAL DATED 22/08/2011.

EXHIBIT-P3-A TRUE COPY OF THE APPLICATION FOR STAY DATED 22/08/2011.

**EXHIBIT-P4-TRUE COPY OF THE COMMUNICATION DATED 16/02/2015 ISSUED BY
THE 3RD RESPONDENT.**

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 5786 of 2015 (W)

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

JUDGMENT

Against Ext.P1 order confirming a demand of central excise duty at penalty, the petitioner preferred Ext.P2 appeal along with Ext.P3 stay petition before the 1st respondent. The grievance of the petitioner is that that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed against the petitioner by Ext.P1 order.

2. I have heard Sri.A.Kumar, learned counsel appearing for petitioner and Sri.Tojan J.Vathikulam, learned Standing counsel appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with a direction to the 1st respondent to consider and pass orders on Ext.P3 stay petition, preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be passed by the 1st respondent shall contain reasons for the decision arrived at by him.

Recovery steps for recovery of the amounts confirmed against the petitioner by Ext.P1 order shall be kept in abeyance till such time as the 1st respondent passes orders, as directed, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/24/02/