

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. 5836 of 2015 (D)

PETITIONER(S):

**MULAMMOOTIL CONSUMER CREDITS LTD.,
TC 9/1419 (1), TEMPLE ROAD, SASTHAMANGALAM,
TRIVANDRUM - 695 010, REP. BY MANAGING DIRECTOR.**

**BY ADVS.SRI.ANIL D. NAIR,
SRI.R.SREEJITH,
SMT.C.S.SULEKHA BEEVI,
SMT.ROSIE ATHULYA JOSEPH,
KUM.SOUMYA PRAKASH.**

RESPONDENT(S):

- 1. ASSISTANT COMMISSIONER, COMMERCIAL TAXES,
SPECIAL CIRCLE, PERUMBAVOOR-683 545.**
- 2. THE COMMISSIONER OF CENTRAL EXCISE (APPEALS),
CENTRAL REVENUE BUILDING,
I.S. PRESS ROAD, COCHIN -18.**
- 3. SUPERINTENDENT OF CENTRAL EXCISE,
SERVICE TAX GROUP -E, I.C.E BHAVAN,
PRESS CLUB ROAD, TRIVANDRUM-695 001.**

**R1 BY GOVT. PLEADER SRI.SUDHEESH KUMAR.
R2 & R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC.**

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1: TRUE COPY OF THE ORDER IN ORIGINAL DATED 12/06/2013 BY THE FIRST RESPONDENT.
- P2: TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- P3: TRUE COPY OF THE PETITION TO DISPENSE WITH PRE-DEPOSIT OF PENALTY AND INTEREST FILED BEFORE THE 2ND RESPONDENT.
- P4: TRUE COPY OF THE LETTER ISSUED BY THIRD RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.5836 of 2015

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

J U D G M E N T

Against Ext.P1 order of the 1st respondent confirming a demand of service tax and penalty on the petitioner, the petitioner had preferred Ext.P2 appeal and Ext.P3 stay petition before the 2nd respondent. The grievance of the petitioner in the writ petition is that even before considering the stay petition, recovery steps initiated by the respondents to recover the amounts confirmed against the petitioner by Ext.P1 order.

2. I have heard Sri.Anil D.Nair, the learned counsel for the petitioner, Sri.Ranjith J.Koshy, the learned Standing counsel for Central Board of Excise and Sri.Sudheesh Kumar, the learned Government Pleader for the 1st 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 Ext.P3 stay petition within a period

of two 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 Ext.P1 order 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 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

