

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. 5863 of 2015 (G)

PETITIONER(S):

**M/S. POWERLINK BUILDERS PVT. LTD.,
G-3, AISWARYA, JAWAHARNAGAR
KOWDIAR,
THIRUVANANTHAPURAM - 695 003,
(REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER)**

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

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),
CR BUILDINGS, IS PRESS ROAD, COCHIN-682 018.**
- 3. COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD, TRIVANDRUM-695 001.**
- 4. ASSISTANT COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD, TRIVANDRUM-695 001.**
- 5. SUPERINTENDENT OF CENTRAL EXCISE AND CUSTOMS
ICE BHAVAN, PRESS CLUB ROAD, TRIVANDRUM-01**

**BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC
SRI.RANJITH 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. 5863 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE APPEAL AND STAY PETITION FILED BY THE
PETITIONER IN RESPECT OF ORDER-IN-ORIGINAL NO.13/2011 ST (AC)
DT. 25.7.2011 BEFORE THE SECOND RESPONDENT.**

**EXHIBIT P2: TRUE COPY OF THE APPEAL AND STAY PETITION FILED BY THE
PETITIONER IN RESPECT OF ORDER-IN-ORIGINAL NO.20/2012 ST (AC)
DT. 22.3.2012 BEFORE THE SECOND RESPONDENT.**

**EXHIBIT P3: TRUE COPY OF THE LETTER ISSUED BY THE FIFTH RESPONDENT
DT.24.10.2013.**

**EXHIBIT P4: TRUE COPY OF THE LETTER DT.8.11.2013, SUBMITTED BY THE
PETITIONER TO THE FIFTH RESPONDENT.**

**EXHIBIT P5: TRUE COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT
DT.22.1.2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv**/**

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.5863 of 2015

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

J U D G M E N T

Against the orders confirming a demand of service tax on the petitioner, he has filed Exts.P1 and P2 appeals and stay petitions 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.Chitra R., the learned counsel for the petitioner and Sri.Ranjit Koshy, the learned Standing counsel for the respondents.

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 petitions 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 orders against which Exts.P1 and P2 appeals have 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 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/

