

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 5945 of 2015 (P)

PETITIONER(S):

**M/S. SIVAJI BUILDERS PVT. LTD.,
E-7, VRINDAVAN E STREET, JAWAHAR NAGAR,
KOWDIAR, THIRUVANANTHAPURAM-695 003,
REPRESENTED BY ITS MANAGING DIRECTOR.**

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

**R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2-R6 BY ADV. SRI.TOJAN J.VATHIKULAM,SC
SRI.THOMAS MATHEW NELLIMOOTTIL,SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 5945 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT P1 : TRUE COPY OF THE APPEAL AND STAY PETITION FILED BY THE
PETITIONER IN RESPECT OF ORDER-IN-ORIGINAL NO.13/2011 ST(JC)
DT.01-03-2011 BEFORE THE SECOND RESPONDENT.**

**EXT P2 : TRUE COPY OF THE APPEAL AND STAY PETITION FILED BY THE
PETITIONER IN RESPECT OF ORDER-IN-ORIGINAL NO.1/2013 ST(ADC)
DT.12-02-2013 BEFORE THE SECOND RESPONDENT.**

**EXT P3 : TRUE COPY OF THE LETTER DT. 05-05-2011 ISSUED BY THE SECOND
RESPONDENT TO THE PETITIONER ACKNOWLEDGING THE RECEIPT OF
THE APPEAL.**

**EXT P4 : TRUE COPY OF THE LETTER DT. 17-04-2013 ISSUED BY THE SECOND
RESPONDENT TO THE PETITIONER ACKNOWLEDGING THE RECEIPT OF
THE APPEAL.**

**EXT P5 : TRUE COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT
DT.06-02-2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5945 OF 2015 (P)

Dated this the 25th day of February, 2015

J U D G M E N T

Against orders confirming a demand of service tax on the petitioner, the petitioner has preferred Exts.P1 and P2 appeals and stay petitions before the 2nd respondent. It is the case of the petitioner that even prior to considering the stay petitions, recovery steps have been taken by the respondents for recovery of the amounts confirmed against the petitioner by the orders against which Exts.P1 and P2 appeals have been filed.

2. Heard Smt.R.Chitra, the learned counsel appearing for the petitioner and Sri.Tojan J. Vathikulam, 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 petitions filed by the petitioner 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 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.

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