

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 6177 of 2015 (V)

PETITIONER:

**M/S.MINOSH CONSTRUCTIONS
MINOSHDEEP, KOTTARAKKAVU,
MAVELIKKARA - 690 101
REPRESENTED BY ITS MANAGING PARTNER**

**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, I.S. PRESS ROAD, COCHIN - 682 018.**
- 3. ADDITIONAL COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD, THIRUVANANTHAPURAM**
- 4. ASSISTANT COMMISSIONER OF CENTRAL EXCISE & CUSTOMS
VARINJAM TOWERS, RESIDENCY ROAD,
KOLLAM**
- 5. THE MANAGER,
THE SOUTH INDIAN BANK LTD.,
MAVELIKKARA BRANCH, 1ST FLOOR,
NADAKKAVU, MAVELIKKARA - 690 101**

**R5 BY SRI.GEORGE VARGHESE,SC,SOUTH INDIAN BAN
R1-4 BY SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 6177 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 DATED 19.04.2011 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER ACKNOWLEDGING THE RECEIPT OF THE APPEAL**
- EXHIBIT P3 : TRUE COPY OF THE LETTER ISSUED BY THE 4TH RESPONDENT DATED 20.01.2015**
- EXHIBIT P4 : TRUE COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER DATED 13.2.2015**
- EXHIBIT P5 : TRUE COPY OF THE JUDGMENT DELIVERED BY THE HON'BLE HIGH COURT OF KERALA IN W.P.(C) NO.764/2015(U) DATED 9.1.2015**

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO. 6177 OF 2015 (V)

Dated this the 26th day of February, 2015

J U D G M E N T

Against an order confirming the demand of service tax on the petitioner, the petitioner has preferred Exts.P1 appeal before the 2nd respondent along with a stay petition. The grievance of the petitioner in the writ petition is that even before passing final orders in the appeal, recovery steps are sought to be initiated against the petitioner for recovery of the amounts confirmed against him by the order, against which Exts.P1 appeal was filed.

2. Heard Sri.G.Ananthanarayan, the learned counsel appearing on behalf of the petitioner and also Sri.Rajit J. Koshy, the learned Standing Counsel appearing on behalf of the respondent.

4. On a consideration of the facts and circumstances of the case and submissions made across the bar, I dispose the writ petition with the following directions:-

(i) There will be a direction to the 2nd respondent to pass final orders on Exts.P1 appeal within a period of one month from the

date of receipt of a copy of this judgment.

(ii) It is made clear that pending passing of final orders on Exts.P1 appeal and communicating the same to the petitioner, the 2nd respondent shall ensure that no recovery or coercive steps are initiated or continued against the petitioner, for realisation of the amounts due under the orders against which Exts.P1 appeal is filed.

(iii) It is made clear that the 5th respondent shall not act on the basis of Ext.P3 during the period of the operation of the stay granted in this judgment.

Sd-
A.K.JAYASANKARAN NAMBIAR
JUDGE