

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 6675 of 2015 (H)

PETITIONER(S):

**M/S.TRIVANDRUM CLUB,
VAZHUTHACAUD
THIRUVANANTHAPURAM - 695 014
REPRESENTED BY ITS SECRETARY,
SHRI CYRIAC JOSEPH.**

**BY ADVS.SRI.T.M.SREEDHARAN (SR.)
SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN**

RESPONDENTS:

- 1. THE ADDITIONAL COMMISSIONER
O/O THE COMMISSIONER OF CENTRAL EXCISE
CUSTOMS AND SERVICE TAX, P.B.NO. 13, I.C.E.BHAVAN
PRESS CLUB ROAD, THIRUVANANTHAPURAM - 695 001.**
- 2. THE COMMISSIONER OF CENTRAL EXCISE
CUSTOMS AND SERVICE TAX (APPEALS), C.R.BUILDING
I.S.PRESS ROAD, COCHIN - 682 018.**
- 3. THE SUPERINTENDENT OF CENTRAL EXCISE
SERVICE TAX GROUP B, 3RD FLOOR, I.C.E.BHAVAN
PRESS CLUB ROAD, THIRUVANANTHAPURAM - 695 001.**

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC,

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF ADJUDICATION ORDER IN-ORIGINAL NO. 05/2013-ST (ADC) DATED 28/03/2013 PASSED BY THE FIRST RESPONDENT**
- EXT.P2: A TRUE COPYH OF MEMORANDUM OF APPEAL DATED 15/07/2013 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**
- EXT.P3: A TRUE COPY OF THE STAY PETITION DATED 15/07/2013 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**
- EXT.P4: TRUE COPY OF THE NOTICE OC NO. 191 DATED 16/02/2015 ISSUED BY THE 3RD RESPONDENT.**
- EXT.P4(A): TRUE COPY OF THE NOTICE OC NO. 181/2015 DATED 16/02/2015 ISSUED BY THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.6675 of 2015

.....
Dated this the 3rd day of March, 2015

J U D G M E N T

Against Exts.P1 order 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 petitioner apprehends that steps for recovery of the amounts confirmed against the petitioner by Ext.P1 order will be taken even before the 2nd respondent considers the stay petition.

2. Heard Sri.T.M.Sreedharan, the learned Senior counsel for the petitioner and Sri.Thomas Mathew Nellimoottil, the learned Standing counsel for Central Board of Excise and customs.

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

mns

