IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 6736 of 2015 (N)

PETITIONER(S):

ROY JAMES, S/O.JAMES,
EMAL LAND KARITHURA, CHAVARA P.O.,
KOLLAM DISTRICT, KERALA.

BY ADVS.SRI.R.SUDHEESH KUMAR
SRI.SUNIL KUMAR A.G.

RESPONDENT(S):
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1. **UNION OF INDIA,**
   REPRESENTED BY THE SECRETARY TO FINANCE,
   MINISTRY OF FINANCE, NEW DELHI - 110 004.

2. **COMMISSIONER OF CENTRAL EXCISE,**
   CUSTOMS AND SERVICE TAX, TRIVANDRUM,
   T.C.NO.26/334 (1 & 2), I.C.E. BHAVAN,
   PRESS CLUB ROAD, TRIVANDRUM - 695 001.

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-03-2015 ALONG WITH WP(C) NO.6737/2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 6736 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE ORDER DTD.11.11.2014 IN MISC ORDER NO.22957-22961/2014.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) Nos. 6736 & 6737 of 2015

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Dated this the 4th day of March, 2015

JUDGMENT

In both these writ petitions, the petitioners impugn Ext.P1 conditional orders of stay that were passed by the Customs, Excise & Service tax Appellate Tribunal, Bangalore.

2. On a perusal of the stay orders that are impugned as Ext.P1 in both these cases, it is seen that, the Appellate Tribunal has recorded a finding that, in the appeals filed by the petitioners, there was no serious challenge to the liability to service tax and interest that was levied on the petitioners. The petitioners in their appeals had only contended that, the first appellate authority had passed its order beyond the period of six months and to that extent had acted beyond its jurisdiction.

3. On a consideration of Ext.P1 order in both these writ petitions, I do not see any irregularity in the exercise of discretion by the Appellate Tribunal. In that view of the matter, I am not inclined to interfere with the said orders in this proceedings under Article 226 of the Constitution of India. Resultantly, the writ petitions in their challenge against Ext.P1 order passed by the appellate tribunal fail, and are accordingly dismissed.

The learned counsel for the petitioners would submit that, the time granted to comply with the directions in Ext.P1 order is only up to 19.02.2015, and the petitioners have been called upon to remit the entire amount of service tax, together with accrued interest as demanded by the lower authority. Taking into account the plea of financial hardship urged on behalf of the petitioner, I extend the time for compliance with the directions in Ext.P1 order of the Tribunal till 31.03.2015. Save for this limited modification, Ext.P1 order, that is impugned in both these writ petitions, is not otherwise interfered with.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/04/03/