

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 6750 of 2015 (P)

PETITIONER(S):

**M/S. KERALA STATE ELECTRONIC
DEVELOPMENT CORPORATION LTD.,
KELTRON EQUIPMENT COMPLEX, KARAKULAM,
TRIVANDRUM, (REPRESENTED BY ITS
CHIEF GENERAL MANAGER).**

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

RESPONDENT(S):

- 1. UNION OF INDIA,
REPRESENTED BY REVENUE RECOVERY,
MINISTRY OF FINANCE, NEW DELHI-110 001.**
- 2. THE COMMISSIONER OF CENTRAL
EXCISE & CUSTOMS (APPEALS),
CR BUILDINGS, IS PRESS ROAD, KOCHI-682 018.**
- 3. COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM-695 001.**
- 4. ADDITIONAL COMMISSIONER OF CENTRAL
EXCISE & CUSTOMS, ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM-695 001.**
- 5. JOINT COMMISSIONER OF CENTRAL
EXCISE & CUSTOMS, ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM-695 001.**
- 6. ASSISTANT COMMISSIONER OF CENTRAL
EXCISE & CUSTOMS, ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM-695 001.**

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**7. SUPERINTENDENT OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM-01.**

**BY ADVS. SRI.TOJAN J.VATHIKULAM, SC.
SRI.THOMAS MATHEW NELLIMOOTTIL, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 : COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER INTIMATING THE PERSONAL HEARING.
- EXT.P2 : COPIES OF THE ARGUMENT NOTES SUBMITTED BY THE PETITIONER AT THE TIME OF PERSONAL HEARING BEFORE THE 2ND RESPONDENT ON 09.12.2014.
- EXT.P3 : COPY OF THE LETTER ISSUED BY THE 7TH RESPONDENT DATED 11/02/2015 TO THE PETITIONER.
- EXT.P4 : COPY OF THE JUDGMENT DELIVERED BY THE HON'BLE HIGH COURT OF KERALA IN WP(C).NO.764 OF 2015(U).
- EXT.P5 COPY OF THE APPEAL AND STAY PETITION A.NO.9/ST/TVM/2010 AGGRIEVED AGAINST ORDER IN ORIGINAL NO.54/2009 ST (JC) DATED 01/12/2009 FILED BY THE PETITIONER TO THE 2ND RESPONDENT (WITHOUT ANNEXURES).
- EXT.P6 COPY OF THE APPEAL AND STAY PETITION A.21/ST/TVM/2011 AGGRIEVED AGAINST ORDER IN ORIGINAL NO.45/2010 ST (JC) DATED 09/11/2010 FILED BY THE PETITIONER TO THE 2ND RESPONDENT (WITHOUT ANNEXURES).
- EXT.P7 COPY OF THE APPEAL AND STAY PETITION A.NO.110/ST/TVM/2010 AGGRIEVED AGAINST ORDER IN ORIGINAL NO.31/2010 ST (AC) DATED 15/09/2010 FILED BY THE PETITIONER TO THE 2ND RESPONDENT (WITHOUT ANNEXURES).
- EXT.P8 COPY OF THE APPEAL AND STAY PETITION A.NO.18/ST/TVM/2010 AGGRIEVED AGAINST ORDER IN ORIGINAL NO.101/ST/2009 DATED 28/12/2009 FILED BY THE PETITIONER TO THE 2ND RESPONDENT (WITHOUT ANNEXURES).
- EXT.P9 COPY OF THE APPEAL AND STAY PETITION A.NO.182/ST/TVM/2011 AGGRIEVED AGAINST ORDER IN ORIGINAL NO.65/2011 ST (ADC) DATED 16/11/2011 FILED BY THE PETITIONER TO THE 2ND RESPONDENT (WITHOUT ANNEXURES).
- EXT.P10 COPY OF THE APPEAL AND STAY PETITION A.NO.181/ST/TVM/2011 AGGRIEVED AGAINST ORDER IN ORIGINAL NO.26/2011 ST (AC) DATED 28/10/2011 FILED BY THE PETITIONER TO THE 2ND RESPONDENT (WITHOUT ANNEXURES).

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**EXT.P11 COPY OF THE APPEAL AND STAY PETITION A.NO.59/ST/TVM/2013
AGGRIEVED AGAINST ORDER IN ORIGINAL NO.10 & 11/2013 ST (ADC)
DATED 14/06/2013 FILED BY THE PETITIONER TO THE
2ND RESPONDENT (WITHOUT ANNEXURES).**

**EXT.P12 COPY OF THE APPEAL AND STAY PETITION A.NO.
AGGRIEVED AGAINST ORDER IN ORIGINAL NO.34/2014 ST (DC)
DATED 25/09/2014 FILED BY THE PETITIONER TO THE
2ND RESPONDENT (WITHOUT ANNEXURES).**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6750 OF 2015 (P)

Dated this the 17th day of March, 2015

J U D G M E N T

Against the orders confirming a demand of service tax and penalty on the petitioner, the petitioner has preferred Exts.P5 to P12 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 the appeals have been filed.

2. I have heard the learned counsel appearing for the petitioner and also 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 appeals are filed, shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp