

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. 6814 of 2015 (B)

PETITIONER :

**M/S. CAPSTOCK & SECURITIES (INDIA) PVT. LTD.,
CAPSTOCK TOWERS, THAKARAPARAMBU ROAD, FORT P.O.,
THIRUVANANTHAPURAM - 695023
(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 - 110001**
- 2. THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS (APPEALS)
CR BUILDINGS, IS PRESS ROAD, COCHIN 682018**
- 3. COMMISSIONER OF CENTRAL EXCISE & CUSTOMS
ICE BHAVAN, PRESS CLUB ROAD, TRIVANDRUM - 695001**
- 4. ASSISTANT COMMISSIONER OF CENTRAL EXCISE & CUSTOMS
ICE BHAVAN, PRESS CLUB ROAD, TRIVANDRUM - 695001**
- 5. ADDITIONAL COMMISSIONER OF CENTRAL EXCISE & CUSTOMS
ST DIVISION, ICE BHAVAN, PRESS CLUB ROAD
TRIVANDRUM - 695001**
- 6. SUPERINTENDENT OF CENTRAL EXCISE & CUSTOMS
ICE BHAVAN, PRESS CLUB ROAD, TRIVANDRUM - 01**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 6814 of 2015 (B)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1: TRUE COPY OF THE APPEAL FILED BY THE PETITIONER IN RESPECT
 OF ORDER IN ORIGINAL NO.15/2013 ST(AC) DT. 05.04.2013 BEFORE
 THE SECOND RESPONDENT.**
- EXT. P2: TRUE COPY OF THE APPEAL AD STAY PETITON FILED BY THE
 PETITIONER IN RESPECT OF ORDER IN ORIGINAL NO. 37, 38
 AND 39/2013 ST(ADC) DT. 11.11.2013 BEFORE THE SECOND
 RESPONDENT WITHOUT ANNEXURES.**
- EXT. P3: TRUE COPY OF LETTER ISSUED BY THE SIXTH RESPONDENT DATED
 22/10/2013 TO THE PETITONER.**
- EXT. P4: TRUE COPY OF THE LETTER DATED 10.02.2014 ISSUED BY THE
 SECOND RESPONDENT TO THE PETITONER ACKNOWLEDGING THE
 RECEIPT OF THE APPEAL.**
- EXT. P5: TRUE COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT
 DATED 23.02.2015.**

RESPONDENT(S)' EXHIBITS : **NIL**

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.6814 of 2015

.....
Dated this the 4th day of March, 2015

J U D G M E N T

Against orders confirming a demand of service tax and penalty on the petitioner, the petitioner had preferred Exts.P1 and P2 appeals and stay petitions before the 2nd respondent. The apprehension of the petitioner is that even before considering the stay petitions, the respondents will proceed against the petitioner for recovery of the amounts confirmed against him by the orders against which the appeals have been filed.

2. Heard Smt.R.Chitra, the learned counsel for the petitioner and Sri.Tojan J.Vathikulam, 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 the stay petitions within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps for recovery of the amounts confirmed against the petitioner, by the orders against which the appeals have been filed, shall be kept in abeyance till such time as 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

