

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 7021 of 2015 (C)

PETITIONER :

**SASI AYYANCHIRA
RESIDING AT AYYANCHIRA HOUSE, MAGALASSERY
KORATTY SOUTH P.O., THRISSUR - 680 308.**

BY ADV. SRI.P.G.JAYASHANKAR

RESPONDENT(S) :

- 1. UNION OF INDIA
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE
MINISTRY OF FINANCE, CENTRAL SECRETARIAT
GOVERNMENT OF INDIA, NEW DELHI - 110 001.**
- 2. COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS
KOZHIKODE COMMISSIONERATE, CR BUILDINGS, MANANCHIRA
KOZHIKODE - 673 001.**
- 3. THE ADDITIONAL COMMISSIONER OF CENTRAL EXCISE
CUSTOMS AND SERVICE TAX, CALICUT COMMISSIONERATE,
C.R BUILDINGS, MANANCHIRA, CALICUT 673 001.**
- 4. THE SUPERINTENDENT OF CENTRAL EXCISE
CUSTOMS AND SERVICE TAX, CHALAKUDY RANGE
IRIMPAN'S BUILDING, HOUSING BOARD COLONY
CHALAKUDY - 680 307.**
- 5. THE COMMISSIONER OF CENTRAL EXCISE CUSTOMS
AND SERVICE TAX (APPEALS), C.R BUILDINGS,
I.S PRESS ROAD, COCHIN - 682 018.**

R1 TO R5 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE CHALLAN DATED 1.3.2010 EVIDENCING THE PAYMENT OF MONEY.
- EXT.P2 COPY OF THE SHOW CAUSE NOTICE NO. 26/2010-11 DATED 7.6.2010.
- EXT.P3 COPY OF THE REPLY TO SHOW CAUSE NOTICE DATED 14-7-2010.
- EXT.P4 COPY OF THE LETTER DATED 13.12.2012.
- EXT.P5 COPY OF THE LETTER DATED NIL DISPATCHED ON 28.2.13.
- EXT.P6 COPY OF THE JUDGMENT DATED 29.7.2013 IN WP(C) NO. 9642/2013.
- EXT.P7 COPY OF THE ORDER IN ORIGINAL NO. 45/2011-ST DATED 21.12.2011.
- EXT.P8 COPY OF THE APPEAL PREFERRED BEFORE THE 5TH RESPONDENT.
- EXT.P9 COPY OF THE STAY PETITION WITH AFFIDAVIT PREFERRED BEFORE THE 5TH RESPONDENT
- EXT.P10 COPY OF LETTER DATED 1.10.2014 ISSUED BY THE 4TH RESPONDENT.
- EXT.P11 COPY OF REPLY DATED 24.10.2014.
- EXT.P12 COPY OF LETTER DATED 24.2.2015 ISSUED BY TH E4TH RESPONDENT.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7021 OF 2015 (C)

Dated this the 5th day of March, 2015

J U D G M E N T

Against Ext.P7 order confirming a demand of service tax and penalty on the petitioner, the petitioner preferred Ext.P8 appeal and Ext.P9 stay petition before the 5th respondent. It is the case of the petitioner that even prior to considering the stay petition, proceedings were initiated by the respondents against him for recovery of the amounts confirmed by Ext.P7 order.

2. Heard Sri.P.G.Jayashankar, the learned counsel appearing for the petitioner as also Sri.Thomas Mathew Nellimoottil, 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 5th respondent shall consider and pass orders on Ext.P9 stay petition 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 Ext.P7 order shall be kept in abeyance till orders are passed by the 5th respondent as directed above, and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp