

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 7135 of 2015 (N)

PETITIONER(S):

M/S.PALAL BUILDERS PVT. LTD.,
TC NO VII/1088, VATTIYOORKAVU,
THIRUVANANTHAPURAM - 695 013,
(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 - 110 001.
2. THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS (APPEALS),
CR BUILDINGS, IS PRESS ROAD, COCHIN - 682 018.
3. COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE HAVAN, PRESS CLUB ROAD, TRIVANDRUM - 695 001.
4. JOINT COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD, TRIVANDRUM - 695 001.
5. ASSISTANT COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ST DIVISION, ICE BHAVAN, PRESS CLUB ROAD,
TRIVANDRUM - 695 001.
6. SUPERINTENDENT OF CENTRAL EXCISE & CUSTOMS.
ICE BHAVAN, PRESS CLUB ROAD, TRIVANDRUM - 695 001.

BY SRI.THOMAS MATHEW NELLIMOOTTIL, SC, CB EXCISE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1 TRUE COPY OF THE APPEAL AND STAY PETITION FILED BY THE PETITIONER IN RESPECT OF ORDER IN ORIGINAL NO 39/2011 ST (JC) DATED 06-06-2011 BEFORE THE SECOND RESPONDENT.

EXHIBIT P2 TRUE COPY OF THE APPEAL AND STAY PETITION FILED BY THE PETITIONER IN RESPECT OF ORDER IN ORIGINAL NO 34/2012 ST (AC) DT 15-06-2012 BEFORE THE SECOND RESPONDENT.

EXHIBIT P3 TRUE COPY OF THE LETTER DATED 29-09-2011, ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER ACKNOWLEDGING THE RECEIPT OF THE APPEAL.

EXHIBIT P4 TRUE COPY OF THE LETTER DATED 23-08-2012, ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER ACKNOWLEDGING THE RECEIPT OF THE APPEAL.

EXHIBIT P5 TRUE COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT DATED 16-02-2015.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.7135 of 2015

.....
Dated this the 6th 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, recovery steps will be initiated against the petitioner for recovery of the amounts confirmed against him by the orders against which Exts.P1 and P2 appeals have been filed.

2. Heard Smt.R.Chitra, the learned 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 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. It is made clear that pending passing of the

orders as directed and communicating the same to the petitioner, the 2nd respondent shall ensure that no recovery of coercive steps are initiated or continued against the petitioner for realization of the amounts due under the orders against which Exts.P1 and P2 appeals were filed.

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

