IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 10955 of 2008 (D)

PETITIONER(S):

V.V.IBRAHIM, AGED 57 YEARS,
S/O.T.P.AHMED, ETTIKULAM P.O., RAMANTHALI VIA,
KANNUR.

BY ADV. SRI.M.SASINDRAN

RESPONDENT(S):
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1. **THE DISTRICT COLLECTOR,**
   KANNUR.

2. **THE TAHSILDAR,**
   THALIPARAMBA, KANNUR.

3. **THE VILLAGE OFFICER,**
   RAMANTHALI, TALIPARAMBA, KANNUR.

4. **THE DEPUTY COLLECTOR OF CUSTOMS,**
   CUSTOMS HOUSE, KOCHI.

R1 TO R3 BY GOVERNMENT PLEADER SRI.LONACHAN P.V.
R4 BY ADV. SRI.RANJITH JACOB KOSHY, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 10955 of 2008 (D)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: ATRUE COPY OF THE APPELLATE ORDER, DTD.18.9.1986.

EXT.P2: ATRUE COPY OF THE ORDER DTD.28.1.2008.

EXT.P3: ATRUE RELEVANT EXTRACT FROM THE PASSPORT OF THE PETITIONER.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No.10955 of 2008 (D)

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Dated this the 12th day of February, 2015

JUDGMENT

The petitioner, who is aggrieved by the revenue recovery notices issued to him by the 1st respondent, challenges the same on the ground that, the steps initiated by the respondents for recovery of dues under the Customs Act, 1962, are time barred.

2. The facts would disclose that, against the order passed by the authorities under the Customs Act, imposing a penalty on the petitioner, the petitioner had filed an appeal before the first appellate authority, who dismissed the appeal on the ground of non-compliance with the requirements of pre-deposit. The said appellate order, which is produced as Ext.P1 is dated 18.09.1986. Thereafter, the petitioner did not carry the matter in further appeal or other legal proceedings and consequently, Ext.P1 order attained finality.

3. The issue in the writ petition, however, is with regard to the revenue recovery action that was initiated against the petitioner, thereafter, at the instance of the 4th respondent. It is seen that while Ext.P1 order dated 18.09.1986 attained finality, the requisition by the 4th respondent in terms of Section 142(C) of the Customs Act, for recovery of the said amounts from the petitioner, is dated 22.08.2006, which is almost 20 years after

the date of Ext.P1.

4. Under the Customs Act, the maximum period of limitation prescribed for the demand of differential duty, even in cases of wilful suppression or misrepresentation by an importer, is five years. In that view of the matter, the reasonable period of limitation for the purposes of initiating recovery steps under the Customs Act, would have to be taken as five years.

5. In the instant case, insofar as the requisition by the 4th respondent to the 1st respondent/District Collector to invoke the provisions of the Kerala Revenue Recovery Act, itself is dated 22.08.2006, I am of the view that, the debt that is sought to be recovered itself is a time barred one, which cannot be recovered through the provisions of the Kerala Revenue Recovery Act. In taking the above view, I am fortified by the decision of the Supreme Court in **State of Kerala v. Y.R.Kallianikkutty [1999 (2) KLT 146]**. The writ petition is allowed by quashing Ext.P2 order of the 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/13/02/