

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C) .No. 7785 of 2015 (W)

PETITIONER(S) :

M/S.AVANTIKA INTERIYOR SYSTEMS (P)LTD.,
REPRESENTED BY ITS DIRECTOR,
TC 16/1048, C.S.ROAD,
JAGATHY, THIRUVANANTHAPURAM - 695 014.

BY ADVS.SRI.C.S.GOPALAKRISHNAN NAIR &
SMT.CHANDINI G.NAIR.

RESPONDENT(S) :

1. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF REVENUE NORTH BLOCK,
NEW DELHI - 110 001.
2. CHAIRMAN,
CENTRAL BOARD OF EXCISE & CUSTOMS, NORTH BLOCK
NEW DELHI - 110 001.
3. CHIEF COMMISSIONER OF CENTRAL,
EXCISE & CUSTOMS, CENTRAL REVENUE BUILDINGS,
I.S.PRESS ROAD, COCHIN - 682 018.
4. COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM - 695 001.
5. ADDITIONAL COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM - 695 001.
6. JOINT COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM - 695 001.

7. ASSISTANT COMMISSIONER OF CENTRAL EXCISE & SERVICE TAX,
SERVICE TAX DIVISION, ICE BHAVAN,
PRESS CLUB ROAD, THIRUVANANTHAPURAM - 695 001.
8. SUPERINTENDENT OF CENTRAL EXCISE,
SERVICE TAX, GROUP-E, ICE BHAVAN,
PRESS CLUB ROAD, THIRUVANANTHAPURAM - 695 001.
9. COMMISSIONER OF CENTRAL,
EXCISE (APPEALS), CENTRAL REVENUE BUILDINGS,
I.S.PRESS ROAD, COCHIN - 682 018.

BY SRI.RANJITH JACOB KOSHY, SC, CENTRAL BOARD OF EXCISE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT.P1: A TRUE COPY OF SHOW CAUSE NOTICE NO. 91/2010-ST (JC)
DATED 19/10/2010.
- EXT.2: A TRUE COPY OF THE REPLY DATED 01/12/2010.
- EXT.P3: A TRUE COPY OF THE NOTE.
- EXT.P4: A TRUE COPY OF THE ORDER-IN-ORIGINAL NO. 73/2011 ST
(ADC) DATED 16/12/2011.
- EXT.P5: A TRUE COPY OF THE APPEAL DATED 13/03/2012.
- EXT.P6: A TRUE COPY OF THE APPLICATION FOR PRE-DEPOSIT SUBMITTED
ON 13/03/2012.
- EXT.P7: A TRUE COPY OF THE LETTER DATED 13/03/2012.
- EXT.P8: A TRUE COPY OF THE LETTER OC NO. 452/2013 DATED
12/11/2013.
- EXT.P9: A TRUE COPY OF THE LETTER DATED 22/11/2013.
- EXT.P10: A TRUE COPY OF THE LETTER OC NO. 716/2014 DATED
04/12/2014.
- EXT.P11: A TRUE COPY OF THE LETTER DATED 12/12/2014.
- EXT.P12: A TRUE COPY OF THE REPRESENTATION DATED 30/01/2015.
- EXT.P13: A TRUE COPY OF THE LETTER NO. 63/2015 DATED 12/02/2015.
- EXT.P14: A TRUE COPY OF THE CIRCULAR NO. 967/01/2013 CX DATED
01/01/2013.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.7785 of 2015

.....
Dated this the 11th day of March, 2015

J U D G M E N T

Against Exts.P4 order confirming a demand of service tax and penalty on the petitioner, the petitioner had preferred Ext.P5 appeal and Ext.P6 stay petition before the 9th respondent. The petitioner apprehends that steps for recovery of the amounts confirmed against the petitioner by Ext.P4 order will be taken even before the 9th respondent considers the stay petition.

2. I have heard the learned counsel for the petitioner and also 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 9th respondent shall consider and pass orders on Ext.P6 stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Recovery steps for recovery of amounts

confirmed against the petitioner by Ext.P4 order shall be kept in abeyance till orders are passed by the 9th respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 9th respondent shall be a reasoned one adverting 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

