

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 7883 of 2015 (I)

PETITIONER(S):

**M/S. KERALA STATE HOUSING BOARD,
SANTHINAGAR, TRIVANDRUM-695 001
REP. BY ITS EXECUTIVE ENGINEER.**

**BY ADVS.SRI.G.ANANTHANARAYANAN
SRI.B.RAVINDRAN NAIR
SMT.R.CHITRA**

RESPONDENT(S):

- 1. UNION OF INDIA,
REP. BY REVENUE SECRETARY, MINISTRY OF FINANCE
NEW DELHI-110 001.**
- 2. THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS (APPEALS),
CR BUILDINGS, IS PRESS ROAD, COCHIN-682018.**
- 3. COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
PRESS CLUB ROAD, THIRUVANANTHAPURAM. 695001**
- 4. ADDITIONAL COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
PRESS CLUB ROAD, THIRUVANANTHAPURAM.695001**
- 5. THE SUPERINTENDENT,
OFFICE OF SUPERINTENDENT CENTRAL EXCISE
SERVICE TAX D GROUP, PRESS CLUB ROAD
THIRUVANANTHAPURAM.695001**

**R1-R5 BY ADV. SRI.TOJAN J.VATHIKULAM,SC,C.B. EXCISE
R BY SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EXCISE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1 : TRUE COPY OF THE APPEAL A NO.100/ST/TVM/2014 IN RESPECT OF O-IN-O NO.104/2013-14 ST DT. 23.4.2014 FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

EXT P2 : TRUE COPY OF THE LETTER DT. 26.06.2014 FROM THE RESPONDENT NO.2 CONFIRMING THE ACCEPTANCE OF THE APPEAL A.NO.100/ST/TVM/2014.

EXT P3 : TRUE COPY OF THE NOTICE DATE 23.02.2015 ISSUED UNDER SECTION 87(B) OF CHAPTER V OF FINANCE ACT, 1994, BY THE 5TH RESPONDENT TO THE PETITIONER AS INSTRUCTED BY 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7883 OF 2015 (I)

Dated this the 12th day of March, 2015

J U D G M E N T

Against an order confirming a demand of service tax and penalty on the petitioner, he has filed Ext.P1 appeal and stay petition before the 2nd respondent. The apprehension of the petitioner is that even prior to considering the stay petition, recovery steps have been taken by the respondents for recovery of the amounts confirmed against the petitioner by the order against which the appeal has been filed.

2. I have heard the learned counsel for the petitioner and also the learned Standing counsel for the respondents.

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 petition preferred by the petitioner 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 the order against which Ext.P1 appeal has been filed, shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp