IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 7961 of 2015 (U)

PETITIONER:

SUNIL KUMAR,
S/O. SHRI.SUBRAMANIUN,
AGED 49 YEARS, PROPRIETOR,
YESKAY CONSTRUCTION,
SREE MURUGA BUILDING, KALOOR,
COCHIN -682 017.

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. COMMSSIONER OF CENTRAL EXCISE CUSTOMS &
   SERVICE TAX, CENTRAL REVENUE BUILDINGS,
   I.S. PRESS ROAD, COCHIN - 682 018.

3. DEPUTY COMMISSIONER OF CENTRAL EXCISE,
   SERVICE TAX DIVISION, CENTRAL EXCISE BHAVAN,
   KATHRIKADAVU, COCHIN - 682 017.

4. SUPERINTENDENT OF CENTRAL EXCISE,
   SERVICE TAX, E-RANGE, CENTRAL EXCISE BHAVAN,
   KATHRIKADAVU, COCHIN - 682 017.

BY SRI.RANJITH JACOB KOSHY, SC
BY SRI.THOMAS MATHEW NELLIMOOTTIL, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 7961 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT-P1- A TRUE COPY OF THE ORDER IN ORIGINAL NO. COC EXCUS -000-COM-013-14-15 DATED 22/09/2014.

EXHIBIT-P2- A TRUE COPY OF THE NOTICE NO. IV/16/14/2015-ST-MISC DATED 23/02/2015.

EXHIBIT-P3- A TRUE COPY OF CHALLAN DATED 03/03/2015 FOR RS.30,288/-

EXHIBIT-P4- A TRUE COPY OF CHALLAN DATED 27/02/2014 FOR RS.2,05,049/-

EXHIBIT-P5- A TRUE COPY OF CHALLAN DATED 04/03/2015 FOR RS.10 LAKHS.

EXHIBIT-P6- A TRUE COPY OF CHALLAN DATED 09/03/2015 FOR RS. 20 LAKHS.

EXHIBIT-P7- A TRUE COPY OF CHALLAN DATED 10/03/2015 FOR RS.10 LAKHS.

EXHIBIT-P8- A TRUE COPY OF CHALLAN DATED 10/03/2015 FOR RS. 10 LAKHS.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

..

W.P.(C) No.7961 of 2015

..

Dated this the 25th day of March, 2015

JUDGMENT

The petitioner who is an assessee to service tax as per the provisions of the Finance Act, 1994, as amended, is aggrieved by the proceedings that have been initiated by the respondents under the said Statute, for recovery of the service tax amounts that are admittedly due and payable by the petitioner. Ext.P2 is the garnishee notice that has been issued by the respondents under Section 87 (b) (1) of Chapter V of the Finance Act, 1994, to the various persons from whom the petitioner is entitled to get amounts under contracts entered into with them. The challenge in the writ petition against Ext.P2 is premised on the contention that, if the garnishee proceedings are given effect to, the petitioner will not be able to receive any amounts for carrying on his business, and hence, the petitioner prays that the garnishee proceedings in respect of certain persons mentioned in Ext.P2 notice, be stayed so that the petitioner may get the amounts due to him from the said persons.

2. I have heard the learned counsel for the petitioner and 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 find that, inasmuch as Ext.P2 is a garnishee notice issued by the respondents to debtors of the petitioner, with a view to recovering the admitted tax liability of the petitioner, the prayer sought for by the petitioner in the writ petition cannot be granted. Although, the petitioner would submit that a stay of garnishee proceedings against some of the persons mentioned in Ext.P2 is essential for him to get amounts from them so as to continue with his business, I am of the view that, as long as the tax liability of the petitioner to the respondents is admitted, the garnishee proceedings cannot be legally interfered with at this stage, the same being in accordance with statutory provisions.

The writ petition fails and is accordingly dismissed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns