

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).NO. 8011 OF 2015 (B)

PETITIONER(S) :

M/S. ACCEL TRANSMATIC LTD,
JERA-20, JEGATHY,
TRIVANDRUM
[REPRESENTED BY MR.MADHUSUDANAN NAIR, AS AUTHORIZED
REPRESENTATIVE]

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

RESPONDENT(S) :

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1. UNION OF INDIA REPRESENTED BY REVENUE SECRETARY
MINISTRY OF FINANCE, NEW DELHI-110001
 2. THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS (APPEALS),
CR BUILDINGS, IS PRESS ROAD, COCHIN -682018
 3. COMMISSIONER OF CENTRAL EXCISE & CUSTOMS, ICE BHAVAN,
PRESS CLUB ROAD, TRIVANDRUM 695 001
 4. ADDITIONAL COMMISSIONER OF CENTRAL EXCISE & CUSTOMS,
ICE BHAVAN, PRESS CLUB ROAD, TRIVANDRUM 695 001
 5. SUPERINTENDENT OF CENTRAL EXCISE & CUSTOMS, ICE BHAVAN,
PRESS CLUB ROAD, TRIVANDRUM -01

R1-R5 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 8011 OF 2015 (B)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE APPEAL AND STAY PETITION FILED BY THE
PETITIONER IN RESPECT OF ORDER-IN-ORIGINAL NO.61/2011 ST (ADC)
DT.28/09/2011 BEFORE THE SECOND RESPONDENT.

EXT.P2: TRUE COPY OF THE LETTER DT.03.02.2012, ISSUED BY THE SECOND
RESPONDENT TO THE PETITIONER ACKNOWLEDGING THE RECEIPT OF THE APPEAL

EXT.P3: TRUE COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT
DT.11.02.2015

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.8011 of 2015

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Dated this the 13th 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 Ext.P1 appeal and stay petition before the 2nd respondent. The apprehension of the petitioner is that even before considering the stay petition, the respondents will proceed against the petitioner for recovery of the amounts confirmed against him by the orders against which the appeals have been filed.

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 2nd respondent shall consider and pass orders on the stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps for recovery of the amounts confirmed against the petitioner, by the orders against which the appeals have been filed, shall be kept in abeyance till such time as orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

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

