IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY,THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

W.P.(C).No.9775 of 2015 (V)

PETITIONER(S):-

M/S. DEEPTHI TRANSPORTS SERVICES,
IRE ROAD, KARITHURA, CHAVARA P.O., KOLLAM - 691 583,
REPRESENTED BY ITS MANAGING PARTNER MR.CALLISTUS ZACHARIA

BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS.

RESPONDENT(S):-

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1. UNION OF INDIA, REPRESENTED BY SECRETARY TO REVENUE DEPARTMENT, MINISTRY OF FINANCE, NEW DELHI - 110 001.

2. THE COMMISSIONER OF CENTRAL EXCISE, CUSTOMS & SERVICE TAX, ICE BHAVAN, PRESS CLUB ROAD, THIRUVANANTHAPURAM - 695 001.

3. THE CUSTOMS, CENTRAL EXCISE & SERVICE TAX APPELLATE TRIBUNAL, FKCCI COMPLEX, KG ROAD, BANGALORE - 560 009.

4. THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE, CUSTOMS & SERVICE TAX, VARINJAM TOWERS, RESIDENCY ROAD, KOLLAM - 691 001.

5. THE KERALA MINERALS & METALS LTD., CHAVARA, KOLLAM - 691 583, REPRESENTED BY ITS MANAGING DIRECTOR.

R1 TO R4 BY STANDING COUNSEL SRI.THOMAS MATHEW NELLIMOOTTIL.
R1 TO R4 BY STANDING COUNSEL SRI.TOJAN J.VATHIKULAM.
R5 BY ADV.SMT.LATHA KRISHNAN,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

W.P.(C).NO.9775 OF 2015-V

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	TRUE COPY OF THE ORDER-IN-ORIGINAL NO.TVM-EXCUS-OOO-COM-18-14-15(ST) DATED 27.09.2014 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.
EXT.P2	TRUE COPY OF THE APPEAL MEMORANDUM DATED 31.01.2015 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
EXT.P3	TRUE COPY OF THE LETTER DATED 06.02.2015 ISSUED BY THE DEPUTY REGISTRAR OF THE 3RD RESPONDENT TO THE 2ND RESPONDENT.
EXT.P4	TRUE COPY OF THE NOTICE DATED 13.03.2015 ISSUED BY THE 4TH RESPONDENT UN/S.87(b) OF THE FINANCE ACT, 1994 TO THE 5TH RESPONDENT.
EXT.P5	TRUE COPY OF THE LETTER DATED 20.03.2015 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

RESPONDENT'S EXHIBITS:-
-------------------------------------- NIL

vku/ [true copy]

K. Vinod Chandran, J.

W.P(C) No.9775 of 2015-V

Dated this the 30th day of March, 2015

JUDGMENT

The petitioner was before the Appellate Authority, against Exhibit P1 assessment order. The deposit made by the petitioner, on the assessment order, already covers 7.5% of the total demand of tax. In such circumstance, no recovery proceedings at Exhibit P4 could have been issued.

Resultantly, the writ petition is allowed. The recovery proceedings at Exhibit P4 would stand set aside.

Sd/-
K. Vinod Chandran,
Judge

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[true copy]