

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 10610 of 2015 (A)

NAME AND ADDRESS OF THE PETITIONER(S) :

**THE EDANAD SERVICE CO-OPERATIVE BANK LIMITED NO.1768,
EDANAD P.O, KOTTAYAM DISTRICT, REPRESENTED BY ITS
SECRETARY.**

BY ADV. SRI.O.D.SIVADAS

NAME AND ADDRESS OF THE RESPONDENT(S) :

- 1. THE JOINT COMMISSIONER,
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS SERVICE TAX, OFFICE, I.S.PRESS ROAD,
COCHIN- 682 018.**
- 2. THE COMMISSIONER (APPEALS),
OFFICE OF THE COMMISSIONER OF CUSTOMS,
CENTRAL EXCISE & SERVICE TAX (APPEALS),
C.R.BUILDINGS, I.S.PRESS ROAD, KOCHI- 682 018.**

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,S.C

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 10610 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF ORDER DATED 26.12.2014.

**EXHIBIT P2: TRUE COPY OF THE APPEAL DATED 20.02.2015 FOR THE PERIOD
01/04/2004 TO 31/12/2011.**

**EXHIBIT P3: TRUE COPY OF THE APPEAL DATED 20.02.2015 FOR THE PERIOD
01/01/2012 TO 30/06/2012.**

EXHIBIT P4: TRUE COPY OF THE STAY PETITION DATED 28.02.2015.

EXHIBIT P5: TRUE COPY OF THE STAY PETITION DATED 28.02.2015.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 10610 of 2015 (A)

.....
Dated this the 31st day of March, 2015

JUDGMENT

Against Ext.P1 order-in-original under the Finance Act, 1994, confirming a demand of service tax and penalty, the petitioner has preferred Exts.P2 and P3 appeals along with Exts.P4 and P5 stay petitions before the 2nd respondent. It is the case of the petitioner that, even prior to considering the stay petitions, recovery steps are taken by the respondents for recovery of the amounts confirmed against the petitioner by Ext.P1 order-in-original.

2. I have heard Sri.O.D.Sivadas, the learned counsel appearing for petitioner and Sri.Thomas Mathew Nellimoottil, learned Standing counsel for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with the following directions :

- i. Inasmuch as this Court has taken a view that appeals to be filed, against orders passed in respect of show cause notices issued prior to 16.08.2014, the date of the amendment to the Finance Act, 1994, requiring

pre-deposit of amounts as a condition for maintaining the appeals, will not be affected by the said amendment, there will be a direction to the 2nd respondent to consider and pass orders on Exts.P4 and P5 stay petitions 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 petitioner pursuant to Ext.P1 order-in-original shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/01/04/