

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 12327 of 2015 (M)

PETITIONER(S):

**THE KANAKKARI SERVICE CO-OPERATIVE BANK LIMITED
NO.3831, VAMPALLY PO, KOTTAYAM DISTRICT, REPRESENTED
BY ITS SECRETARY**

BY ADV. SRI.O.D.SIVADAS

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), CR. BUILDINGS, IS PRESS ROAD
COCHIN - 682 018**

R BY SRI.THOMAS MATHEW NELLIMOOTTIL,STANDING COUNSEL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF ORDER DATED 30.12.2014
- EXHIBIT P2 TRUE COPY OF THE APPEAL DATED 12.03.2015 FOR THE PERIOD
01.04.2007 TO 31.12.2011.
- EXHIBIT P3 TRUE COPY OF THE APPEAL DATED 12.03.2015 FOR THE PERIOD
01.01.2012 TO 30.06.2012.
- EXHIBIT P4 TRUE COPY OF THE STAY PETITION DATED 12.03.2015.
- EXHIBIT P5 TRUE COPY OF THE STAY PETITION DATED 12.03.2015.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 12327 of 2015

Dated this the 10th day of April, 2015

JUDGMENT

Against Ext.P1 assessment order confirming a demand of service tax and penalty on the petitioner, the petitioner had preferred Exts.P2 and P3 appeals together 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 assessment order.

2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

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:

1. 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 16.8.2014, 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.

2.Recovery steps for recovery of amounts confirmed against petitioner pursuant to Ext.P1 assessment order 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