

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

WP(C).NO. 15163 OF 2015 (U)

PETITIONER(S) :

PRAKASH KURUP AGED 58 YEARS
S/O.PURUSHOTHAMA KURUP, AGED 58 YEARS TRIO APARTMENT
31/931, PARADISE ROAD, VYTILA P.O
ELAMKULAM DESOM, POONITHURA VILLAGE, KANAYANNUR TALUK
ERNAKULAM DISTRICT.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :

1. THE SUPERINTENDENT OF CENTRAL EXCISE (SIV)
SERVICE TAX DIVISION, CENTRAL EXCISE BNHAVAN
KATHRIKADAVU, KOCHI 682017, ERNAKULAM DISTRICT.

2. THE DEPUTY COMMISSIONER OF CENTRAL EXCISE,
SERVICE TAX DIVISION CENTRAL EXCISE BHAVAN
KATHRIKADAVU, KOCHI 682017 ERNAKULAM DISTRICT.

R2 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-
09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 15163 OF 2015 (U)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1:TRUE COPY OF THE TAX PAYER'S COUNTER FOIL DATED 16.05.2015 TOWARDS
THE PAYMENT OF A SUM OF RS.10,04,250/- BY THE PETITIONER

P2:TRUE COPY OF THE TAX PAYER'S COUNTERFOIL DATED 20.05.2015 PAID BY
THE PETITIONER TOWARDS SERVICE TAX

P3:TRUE COPY OF THE TAX PAYERS'S COUNTERFOIL DATED 13.05.2015 FOR A SUM
OF RS.25,02,900/- PAID BY THE PETITIONER TOWARDS SERVICE TAX

P4:TRUE COPY OF THE TAX PAYER'S COUNTERFOIL DATED 30.04.2015 FOR A SUM
OF RS. 25,02,900/- TOWARDS THE SERVICE TAX

P5:TRUE COPY OF THE PROVISIONAL SANCTION MEMO ISSUED FROM THE VIJAYA
BANK, MG ROAD,

P6:TRUE COPY OF THE CERTIFICATE DATED 21.05.2015 ISSUED FROM THE VIJAYA
BANK, VYTTILA BRANCH TO THE WIFE OF PETITIONER

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.15163 OF 2015

.....
Dated this the 3rd day of September, 2015

J U D G M E N T

The petitioner who is faced with recovery action for realisation of amounts towards service tax liability has approached this Court seeking a facility for payment of the entire outstanding amount to the respondents in instalments. It is seen from the proceedings in this case that, when the petitioner was arrested in connection with the offence of evasion of payment of service tax, this Court by an interim order dated 22.05.2015, directed the petitioner to be set at liberty on condition that he paid an amount of Rs.50 lakhs, and a further amount of Rs.25 lakhs within one week. The petitioner was also directed to provide the respondents with the title deeds of immovable property belonging to him or his wife, and also execute a bond undertaking that he would pay the balance amount within the time indicated by this Court. It is not in dispute that, the petitioner has since paid an amount of Rs.75 lakhs and has also executed the undertaking and furnished the title deeds of immovable property. It is submitted by the learned Standing counsel for the respondents that the balance amount now outstanding from the petitioner is Rs.24,94,292/- as per

the petitioner's self assessment. The adjudication proceedings have yet to culminate and if the petitioner is found liable for further amounts pursuant to the adjudication order, those amounts will also have to be paid. Taking note of the said submission of the learned Standing counsel for the respondents and also the plea of financial hardship urged on behalf of the petitioner, I dispose the writ petition with the following directions:

i. The petitioner shall pay the balance amount of self assessed tax of Rs.24,94,292/- in two equal monthly instalments commencing from 01.10.2015.

ii. The coercive steps of recovery of the said amounts from the petitioner shall be kept in abeyance during the aforesaid period of two months.

iii. It is made clear that, if the petitioner commits a default in respect of any of the instalments, he will lose the benefit of this judgment and the respondents will be free to initiate the recovery steps against the petitioner from the stage at which they presently stand. Return of the security offered by the petitioner, by

way of title deeds to the property, will be subject to the finalization of any adjudication proceedings initiated by the respondent against the petitioner for the period in question.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/