

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

WP(C).No. 17062 of 2015 (G)

PETITIONER(S) :

- 1. M/S. MANJOORAN HOUSING DEVELOPMENT CO. PVT. LTD.,
J & R COMPLEX, N.H.ROAD, MAMANGALAM
COCHIN - 682 025, REPRESENTED BY ITS MANAGING DIRECTOR
MR.JOY JO MANJOORAN.**
- 2. PAUL J.MANJOORAN,
AGED 60, S/O.LATE JOSEPH MANJOORAN,
DIRECTOR, M/S.MANJOORAN HOUSING DEVELOPMENT CO. PVT LTD.
J & R COMPLEX, N.G. ROAD, MAMANGALAM
COCHIN - 682 025.**
- 3. JOMY THOMAS MANJOORAN
AGED 50, S/O.LATE JOSEPH MANJOORAN, DIRECTOR
M/S. MANJOORAN HOUSING DEVELOPMENT CO. PVT LTD.
J & R COMPLEX, N.G. ROAD, MAMANGALAM
COCHIN - 682 025.**
- 4. JOHN J. MANJOORAN,
AGED 48, S/O.LATE JOSEPH MANJOORAN, DIRECTOR,
M/S.MANJOORAN HOUSING DEVELOPMENT CO. PVT. LTD.
J & R COMPLEX, N.G. ROAD, MAMANGALAM
COCHIN - 682 025**

BY ADV. SRI.TOM K. THOMAS

RESPONDENT(S) :

- 1. UNION OF INDIA
REPRESENTED BY SECRETARY TO MINISTRY OF FINANCE
NEW DELHI.**
- 2. THE COMMISSIONER OF CENTRAL EXCISE
CUSTOMS AND SERVICE TAX, EXCISE COMMISSIONARATE
COCHIN - 682 018.**
- 3. THE SUPERINTENDENT OF CENTRAL EXCISE
CUSTOMS AND SERVICE TAX
EXCISE COMMISSIONERATE, COCHIN - 682 018.**

R1 TO R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1- TRUE COPY OF THE SUMMONS ISSUED BY THE 3RD RESPONDENT TO THE 1ST PETITIONER ON 4.6.2015.
- EXT. P2- TRUE COPY OF THE STATEMENT GIVEN BY THE 1ST PETITIONER ON 5.6.2015.
- EXT. P3- TRUE COPY OF THE STATEMENT GIVEN BY THE 2ND PETITIONER ON 5.6.2015.
- EXT. P4- TRUE COPY OF THE CHALLAN NO.00320 DATED 5.6.2015.
- EXT. P5- TRUE COPY OF THE CHALLAN NO.00138 DATED 5.6.2015.
- EXT. P6- TRUE COPY OF THE CHALLAN NO.00744 DATED 5.6.2015.
- EXT. P7- TRUE COPY OF THE DEMAND DRAFT NO.657678 DATED 5.6.2015 DRAWN ON SOUTH INDIAN BANK LTD.
- EXT. P8- TRUE COPY OF THE STATEMENT GIVEN BY THE 3RD RESPONDENT ON 5.6.2015 TO THE 2ND RESPONDENT.
- EXT. P9- COPY OF CIRCULAR NO. 996/3/2015 DATED 28.2.2015 OF THE GOVERNMENT OF INDIA, MINISTRY OF FINANCE.
- EXT. P10- COPY OF APPLICATION FOR GRANTING INSTALMENTS BEFORE THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 17062 of 2015

Dated this the 31st day of July, 2015

JUDGMENT

The petitioners have approached this Court seeking for a direction to the respondents 2 & 3, to grant sixty days time to submit service tax returns and to pay the amount due as per the return submitted, by way of 18 instalments.

2. In this matter, a counter affidavit and an additional counter affidavit have been filed by the respondents. It is stated therein that the premises of the petitioners were inspected on 04.06.2015 and based on the records seized by the respondents, it is concluded that the petitioners have not paid service tax amounting to Rs. 89,14,863/- in respect of the period from January 2009 to March 2015. It is also stated that the above amount is calculated as per the records of the petitioners and not by any other method. Therefore, the petitioners are liable to pay the amount.

3. The learned counsel for the petitioners, now submits that after the filing of the writ petition, they filed a return on 15.06.2015 and as per the return, their balance liability is only Rs. 25,00,000/- out of Rs. 89,14,863/-.

4. This Court is not entering upon any finding on disputed questions, as the assessment is not yet completed. Therefore, only an arrangement is being made for the purpose of disposal of the writ

petition, as the petitioners were threatened with certain coercive steps by way of arrest.

5. Taking note of the subsequent event of filing returns, the following directions are issued :

i) The petitioners shall co-operate with the proceedings and furnish all the details as requested by the respondents and mentioned in para 19 of the counter affidavit dated 19.06.2015.

ii) If the petitioners are unable to produce all the documents, the petitioners shall file an affidavit to that effect.

iii) Coercive steps against the petitioners shall be deferred on condition that the petitioners remit Rs. 30,00,000/- (Rupees Thirty Lakhs Only) in three instalments commencing from 20.08.2015.

iv) In the event of default, the respondents are free to proceed against the petitioners.

v) The respondents are directed to complete the assessment within a period of four months.

vi) The payment to be effected based on the orders of this Court would depend upon the outcome of the Assessment Proceedings.

The writ petition is disposed of as above. No costs.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE

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