

**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. 22649 of 2015 (E)**  
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**PETITIONER(S):**  
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**M/S.J.M.PROJECTS,  
1/7028, MANAYIL LANE, PALACHUVAD,  
KAKKANAD, ERNAKULAM, COCHIN,  
REPRESENTED BY ITS MANAGING PARTNER  
JOY JOSEPH THULAVATH.**

**BY ADVS.SRI.K.J.ABRAHAM  
SRI.NIKHIL JOHN**

**RESPONDENT(S):**  
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- 1. THE SUPERINTENDENT OF CENTRAL EXCISE (TECHNICAL),  
O/O. THE ASSISTANT COMMISSIONER,  
CENTRAL EXCISE CUSTOMS & SERVICE TAX, SIV, ERNAKULAM,  
1 DIVISION, COCHIN - 682 017.**
- 2. THE ASSISTANT COMMISSIONER,  
O/O. THE ASSISTANT COMMISSIONER,  
CENTRAL EXCISE CUSTOMS & SERVICE TAX, 1V FLOOR,  
CENTRAL EXCISE BHAVAN, KATHRIKADVAU, COCHIN - 682 017.**

**\*      ADDITIONAL R3 TO R5 IMPEADED.**

- 3. AXIS BANK LTD., JANATHA JUNCTION,  
COCHIN - 682 019, REPRESENTED BY ITS MANAGER.**

- 4. HDFC BANK LTD., PALARIVATTOM JUNCTION,  
BLDG.NO.32/1182, GROUND FLOOR,  
COCHIN - 682 025, REP. BY ITS BRANCH  
OPERATIONS MANAGER.**

- 5. UNION BANK OF INDIA, THRIKKAKARA BRANCH,  
NEAR CIVIL STATION, KAKKANAD - 682 030,  
REP. BY ITS CHIEF MANAGER.**

**\*      ARE IMPEADED AS ADDITIONAL R3 TO R5 AS PER ORDER  
DTD.30.7.2015 IN IA.10952/2015.**

**BY ADVS. SRI.SAIBY JOSE KIDANGOOR  
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:**

**msv/**

**WP(C).No. 22649 of 2015 (E)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**EXHIBIT P1. TRUE COPY OF THE ST-3 RETURN FOR THE PERIOD OCTOBER TO  
MARCH 2015 DATED 10.07.2015.**

**EXHIBIT P2. TRUE COPY OF THE STATEMENT GIVEN TO THE 1ST RESPONDENT  
DATED 17.06.2015.**

**EXHIBIT P3. TRUE COPY OF THE CHELAN NO.30056 DATED 19.06.2015.**

**EXHIBIT P3(A). TRUE COPY OF THE CHELAN NO.30104 DATED 22.07.2015.**

**EXHIBIT P3(B). TRUE COPY OF THE CHELAN NO.30106 DATED 22.07.2015.**

**EXHIBIT P4. TRUE COPY OF THE PROCEEDINGS NO.C NO.V/ST/15/08/2015/1883  
DATED 21.07.2015.**

**RESPONDENT(S)' EXHIBITS:**  
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**NIL**

**//TRUE COPY//**

**P.S.TO JUDGE**

**Ms**v**/**

**A. MUHAMED MUSTAQUE, J.**

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**W.P(C). No. 22649 of 2015**  
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**Dated this the 31<sup>st</sup> day of July, 2015**

**J U D G M E N T**

The petitioner has Service Tax liability with the respondents 1 & 2. Petitioner's only prayer before this Court is that, the petitioner may be permitted to clear the amount by way of easy instalments.

2. It is to be noted that the Bank account of the petitioner has been freezed as per the orders of the respondent. This Court on 30.07.2015 passed the following interim order.

*“Notice by special messenger to additional 3<sup>rd</sup> respondent. Standing counsel takes notice for respondents 4 & 5.*

*2. There shall be an interim order as prayed for, on condition that the petitioner furnishes details of the immovable property and title deed of any of the immovable property to the Bank. If such details are furnished, the respondents 1 & 2 shall issue communication to the Bank concerned lifting attachment.*

*Post on 31.07.2015.”*

It is submitted that, based on the above order the petitioner has furnished details of the immovable property.

3. However, learned standing counsel opposes the prayer and submits that, if the petitioner is permitted to operate the Bank

account, he will take away the entire amount in the Bank account to deprive the respondents from recovery.

4. Considering the facts and circumstances, following directions are issued:

- (i) The petitioner shall file an undertaking before this Court within a period of one week, to the effect that, he will discharge the entire liability in 5 equal monthly instalments starting from 17.08.2015.
- (ii) The petitioner will not raise any objection regarding quantification of the amount already made by the respondents.
- (iii) The respondents shall retain the documents furnished by the petitioner till clearing of the entire dues and on clearing the same, the documents shall be released to the petitioner.
- (iv) Based on the above, the petitioner is permitted to operate the account.
- (v) The event of default in remitting any one of the instalments, the respondents are free to proceed either against property and Bank account, as well as initiating proceedings under Section 87 of Finance Act, 1994.

Sd/-

**A. MUHAMED MUSTAQUE, JUDGE.**

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