

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 22829 of 2015 (C)

PETITIONER:

**M/S.INDO ASIAN CHANNEL PRIVATE LIMITED,
REPORTER STUDIO COMPLEX, HMT COLONY P.O.,
ERNAKULAM-683503, REPRESENTED BY ITS
MANAGING DIRECTOR, M.V.NIKESH KUMAR.**

**BY ADVS.SRI.C.P.UDAYABHANU
SMT.P.A.MENISHA
SRI.MANOJ.R.**

RESPONDENT(S):

- 1. THE UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
NORTH BLOCK, NEW DELHI-110001.**
- 2. THE COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS AND SERVICE TAX, C.R.BUILDING,
I.S.PRESS ROAD, COCHIN-682018.**
- 3. THE DEPUTY COMMISSIONER (PREVENTIVE),
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS AND SERVICE TAX, C.R.BUILDING,
I.S.PRESS ROAD, COCHIN-682018.**

**R1 BY SRI.N.NAGARESH, A S G
BY ADV. SMT.K.R.AMBILI, CGC
R2 & R3 BY ADV. SRI.JOHN VARGHESE,SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 22829 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1 : TRUE COPY OF THE NOTIFICATION DT. 25.8.2014.
- EXT.P2 : TRUE COPY OF THE ORDER STATEMENT SHOWING THE AMOUNTS DUE TO THE PETITIONER.
- EXT.P3 : TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC 22714/2014 DT.2-9-2014.
- EXT.P4 : TRUE COPY OF THE STATEMENT ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT DT.18-9-2014.
- EXT.P5 : TRUE COPY OF THE IA 13810/2014 IN WPC 22714/2014.
- EXT.P6 : TRUE COPY OF THE COUNTER AFFIDAVIT FILED IN IA 13810/2014 IN WPC 22714/2014 DT.20-10-2014.
- EXT.P7 : TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN IA 13810/2014 IN WPC 22714/2014 DT.12-11-14.
- EXT.P8 : TRUE COPY OF THE APPLICATION FOR REMAND IN OR 3/2014-15/ST ON THE FILES OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE, (ECONOMIC OFFENCES COURT),ERNAKULAM.
- EXT.P9 : TRUE COPY OF THE JUDGMENT IN WA 698/2015 OF THIS HON'BLE COURT.
- EXT.P10 : TRUE COPY OF THE NOTIFICATION DT.10-9-2004.
- EXT.P11 : TRUE COPY OF THE NOTIFICATION DT.11-7-2014.
- EXT.P12 : TRUE COPY OF THE STATEMENT OF ACCOUNTS TAKEN DOWN FROM THE OFFICE OF THE SERVICE TAX DEPARTMENT OF THE RESPONDENTS.
- EXT.P13 : TRUE COPY OF THE STATEMENT OF ACCOUNTS CALCULATING THE INTEREST IN TUNE WITH EXT.P10 AND P11 NOTIFICATION.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

W.P(C).No. 22829 of 2015

Dated this the 4th November, 2015

JUDGMENT

The dispute in this Writ Petition is with respect to interest claimed by the respondent Department for the delay in making payment of service tax. The petitioner refers to Exhibit P10 notification dated 10.9.2004 issued by the Government of India fixing 13% interest per annum and also refers to the Government of India notification dated 11.7.2014, wherein the rate of interest is prescribed depending upon the period involved. The service tax admittedly now being sought to be recovered is for the period from April, 2011 to March, 2014, both inclusive.

2. The learned Standing Counsel for the respondent Department refers to the notification issued by the Government of India dated 1.3.2011, wherein the interest rate is prescribed as 18%.

In the above facts and circumstances, this Court is of the view that the respondents can refix the interest in the

light of the notification dated 1.3.2011 as the period referred to above covers the above notification. The petitioner is given time upto 31.12.2015 to pay the entire amount.

The Writ Petition is disposed of as above.

**A.MUHAMED MUSTAQUE
JUDGE**

vgs4/11/15