

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. 25059 OF 2015 (F)

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PETITIONER(S) :

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RAJ ENGINEERING SOCIETY,  
ALIAS RAJ ENGINEERING CHARITABLE SOCIETY KODUNGAVILA  
NEYYATINKARA, THIRUVANANTHAPURAM, REPRESENTED BY ITS PRESIDENT  
SRI.VIJAYARAJAN

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENT(S) :

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1. COMMISSIONER, OFFICE OF THE COMMISSIONER OF CENTRAL  
EXCISE, CUSTOMS AND SERVICE TAX, ICE BHAVAN  
PRESS CLUB ROAD, THIRUVANANTHAPURAM- 695 001.

2. SUPERINTENDENT,  
CENTRAL EXCISE AND SERVICE TAX, GROUP C  
THIRUVANANTHAPURAM - 695 001.

R1-R2 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
03-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 25059 OF 2015 (F)  
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APPENDIX

PETITIONER(S) ' EXHIBITS  
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EXHIBIT-P1-TRUE COPY OF THE CERTIFICATE OF REGISTRATION UNDER  
TRAVANCORE - COCHIN LITERARY SCIENTIFIC AND CHARITABLE SOCIETIES ACT,  
1955 DATED 09/09/2008.

EXHIBIT-P2-TRUE COPY OF THE CERTIFICATE OF REGISTRATION UNDER (SERVICE  
TAX), CHAPTER V OF THE FINANCE ACT, 1994.

EXHIBIT-P3-TRUE COPY OF THE SPECIMEN COPY OF ONE OF THE RATE CONTRACTS  
DATED 18/12/2009 ISSUED BY THE AWARDER AND THE PRINCIPAL EMPLOYER.

EXHIBIT-P4-TRUE COPY OF THE SPECIMEN COPY OF ONE OF THE PURCHASE ORDERS  
DATED 24/04/2010 ISSUED BY M/S. VIKRAM SARABIA SPACE CENTRE,  
THIRUVANANTHAPURAM.

EXHIBIT-P5-TRUE COPY OF THE RETURN FOR THE PERIOD FROM 2013-14  
DATED 24/04/2014 SUBMITTED BEFORE THE 2ND RESPONDENT FOR THE PERIOD  
OCTOBER, 2013 TO MARCH, 2014.

EXHIBIT-P6-TRUE COPY OF THE SHOW CAUSE NOTICE DATED 30/10/2014 OF THE  
1ST RESPONDENT.

EXHIBIT-P7-TRUE COPY OF THE REPLY TO EXHIBIT-P6 DATED 30/11/2014.

EXHIBIT-P8-TRUE COPY OF THE ORDER IN ORIGINAL DATED 27/03/2015.

EXHIBIT-P9-TRUE COPY OF THE PETITION/REPRESENTATION FOR RECTIFICATION  
DATED 17/07/2015 BEFORE THE 1ST RESPONDENT.

RESPONDENT(S) ' EXHIBITS:NIL  
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//TRUE COPY//

P.A TO JUDGE

**A.K.JAYASANKARAN NAMBIAR, J.**

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W.P.(C).No.25059 OF 2015

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Dated this the 3<sup>rd</sup> day of September, 2015

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

The challenge in the writ petition is against Ext.P8 order passed by the 1<sup>st</sup> respondent confirming a demand of service tax and penalty on the petitioner. Although various contentions have been raised in the writ petition against Ext.P8 order. I find that, the petitioner has an effective alternative remedy against Ext.P8 by way of an appeal before the Appellate Tribunal. I do not see any irregularity in Ext.P8 order that would justify an interference at this stage in these proceedings under Article 226 of the Constitution of India. Thus without pronouncing on the merits of Ext.P8 order, I relegate the petitioner to his alternate remedy of preferring an appeal against Ext.P8 order before the Customs, Excise and Service Tax Appellate Tribunal. The writ petition in its challenge against Ext.P8 order fails and is accordingly dismissed.

Counsel for the petitioner would submit that on account of the pendency of the writ petition, the petitioner could not file the appeal against Ext.P8 order within time. Taking note of the said submission of counsel for the petitioner, I make it clear that, the if the petitioner files an appeal against Ext.P8 order before the Customs, Excise and Service Tax Appellate Tribunal within a period of one month from the

date of receipt of a copy of this judgment, then the Appellate Tribunal shall treat the appeal as one filed within time and proceed to consider the same as such. The interim order against recovery, that was passed by this Court in the writ petition, shall continue to be in force for the aforesaid period of one month.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

mns