IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

WP(C).No. 25441 of 2015 (E)

PETITIONER(S):

THE COYALMANNAM SERVICE CO OPERATIVE BANK LIMITED,
COYALMANNAM P.O., PALAKKAD DISTRICT,
REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS:-:

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1. THE COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS AND SERVICE TAX,
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS AND SERVICE TAX, PALAKKAD II DIVISION,
METTUPALAYAM STREET, PALAKKAD - 678 001.

2. THE ASSISTANT COMMISSIONER,
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS AND SERVICE TAX, PALAKKAD II DIVISION,
PALAKKAD - 678 001.

3. THE SUPERINTENDENT OF CENTRAL EXCISE,
CUSTOMS AND ALATHUR RANGE, ALATHUR,
PALAKKAD - 678 541.

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 25441 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE SHOW CAUSE NOTICE DATED 22.04.2013.

EXHIBIT P2. TRUE COPY OF THE SHOW CAUSE NOTICE DATED 18.10.2013.

EXHIBIT P3. TRUE COPY OF THE JUDGMENT DATED 05.02.2013 IN W.P.(C)NO.6393 OF 2012 ISSUED BY THIS HON'BLE COURT.

EXHIBIT P4. TRUE COPY OF THE REPLY DATED 02.03.2015.

EXHIBIT P5. TRUE COPY OF THE SUMMONS DATED 09.03.2015.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 25441 of 2015

Dated this the 19th day of August, 2015

JUDGMENT

The petitioner is the Secretary of a Co-operative Society challenging summons issued to produce documents has approached this Court.

2. The petitioner relies on the judgment of this Court as produced in Ext.P3 and submits that without determining the jurisdiction of the Authority, ought not to have issued summons to produce the documents.

3. The learned Standing counsel for the Department submits that this was issued as a part of investigation and certainly, they will follow the dictum in Ext.P3 for the purpose of determining jurisdiction. However, it is submitted that even for a determining jurisdiction, the Authority may require certain documents.

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

The respondent Authority shall determine whether it has a jurisdiction and also whether the petitioner's society would fall within the ambit of service tax. The petitioner shall produce all documents as mentioned in Ext.P5. It is made clear that the Authority shall not proceed for assessment without determining the issue as to jurisdiction ordered in Ext.P3.

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

Sd/-
A. MUHAMED MUSTAQUE, JUDGE

bpr