

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 26904 of 2015 (K)

PETITIONER(S) :

**BABY CHERIYAN,
CHELLIYAMPURATH HOUSE, PWD CONTRACTOR,
KIZHUMURI.P.O, MUVATTUPUZHA-686 663.**

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENT(S) :

- 1. THE SUPERINTENDENT OF CENTRAL EXCISE & SERVICE TAX,
MUVAATTUPUZHA-686 661.**
- 2. THE DEPUTY COMMISSIONER OF CENTRAL EXCISE & SERVICE TAX,
MUVAATTUPUZHA DIVISION, MUVATTUPUZHA-686 661.**
- 3. THE COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS & SERVICE TAX (APPEALS), C.R BUILDINGS,
I.S PRESS ROAD, KOCHI-682 018.**

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: COPY OF ORDER DATED 11-12-2012 ISSUED BY THE 2ND RESPONDENT FOR THE FINANCIAL YEAR 2006-07 TO 2009-10.**
- P2: COPY OF APPEAL MEMORANDUM AGAINST EXT.P1.**
- P3: COPY OF STAY PETITION IN EXT.P2 APPEAL.**
- P4: COPY OF DELAY CONDONATION PETITION EXT.P2 APPEAL.**
- P5: COPY OF LETTER DATED 08.03.2013 ISSUED BY THE 3RD RESPONDENT.**
- P6: COPY OF NOTICE DATED 10-08-2015 ISSUED BY THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.26904 of 2015 (K)

.....
Dated this the 7th day of September, 2015

JUDGMENT

Against Ext.P1 order of the 2nd respondent passed under the Finance Act, 1994, for the financial year 2006 - 2007 to 2009 - 2010, the petitioner preferred Ext.P2 appeal along with Ext.P3 stay petition and Ext.P4 delay condonation petition before the 3rd respondent. It is the case of the petitioner that even before the consideration of the stay petition and the delay condonation petition by the 3rd respondent, recovery steps have been initiated against him through Ext.P6 notice, for recovery of the amounts confirmed in the order.

2. I have heard Sri.K.S.Hariharan Nair, learned counsel appearing for petitioner and Sri.T.M.Nellimoottil, learned Standing counsel for the respondents.
3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with a direction to the 3rd respondent to consider and pass orders on Exts.P3 stay petition and Ext.P4 delay condonation petition, preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be

passed by the 3rd respondent shall contain reasons for the decision arrived at by him.

I make it clear that, coercive steps for recovery of amounts confirmed against the petitioner by Ext.P1 order shall be kept in abeyance till such time, as the 3rd respondent passes orders, as directed above, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/07/09/