

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

WP(C).No. 27160 of 2015 (T)

PETITIONER :

**P.K.SIVAN, AGED 54 YEARS,
PUNNKUZHAYIL HOUSE, PANDAPPILLY POST,
MUVATTUPUZHA, PIN:686672.**

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENTS :

- 1. THE SUPERINTENDENT OF CENTRAL EXCISE & SERVICE TAX
MUVATTUPUZHA-686661.**
- 2. THE DEPUTY COMMISSIONER OF CENTRAL EXCISE & SERVICE TAX,
MUVATTUPUZHA DIVISION, MUVATTUPUZHA-686 661.**
- 3. THE COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS & SERVICE TAX (APPEALS), C. R. BUILDINGS,
I. S. PRESS ROAD, KOCHI-682018.**

BY SRI.THOMAS MATHEW NELLIMOOTTIL,SC,

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

bp

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: COPY OF ORDER DATED 26.2.2013 ISSUED BY THE 2ND RESPONDENT
FOR THE FINANCIAL YEAR 2007-2008 TO 2010-11.**

EXHIBIT P2: COPY OF APPEAL MEMORANDUM AGAINST EXT.P1.

EXHIBIT P3: COPY OF STAY PETITION IN EXT.P2 APPEAL.

EXHIBIT P4: COPY OF NOTICE DATED 12.8.2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.27160 of 2015

.....
Dated this the 9th day of September, 2015

J U D G M E N T

Against Exts.P1 assessment order confirming a demand of service tax and penalty on the petitioner, the petitioner had preferred Ext.P2 appeal and Ext.P3 stay petition before the 3rd respondent. The petitioner apprehends that steps for recovery of the amounts confirmed against the petitioner by Ext.P1 assessment order will be taken even before the 3rd respondent considers the stay petition.

2. I have heard the learned counsel for the petitioner and also the learned Standing counsel for Central Board of Excise and customs.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I dispose the writ petition with the following directions:

- i. The 3rd respondent shall consider and pass orders on Ext.P3 stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps for recovery of amounts confirmed against the petitioner by Ext.P1 order shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 3rd respondent shall be a reasoned one adverting to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**

mns

