

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. 27175 of 2015 (V)

PETITIONER :

**SOUTHERN TECH ENGINEERING
VALLAMATTOM BUILDINGS, PANDAPILLY POST
MUVATTUPUZHA – 686 672
REPRESENTED BY ITS MANAGING PARTNER
SRI. TOMY VALLAMATTOM.**

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENT(S) :

- 1. SUPERINTENDENT OF CENTRAL EXCISE & SERVICE TAX
MUVATTUPUZHA – 686 661.**
- 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 – 682 018.**

R1 TO R3 BY ADV. 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:**

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF ORDER DATED 19-12-2012 ISSUED BY THE 2ND
RESPONDENT FOR THE FINANCIAL YEAR 2007-08 TO 2010-11.

EXT.P1(a) COPY OF THE ORDER DATED 31-12-2014 ISSUED BY THE 2ND
RESPONDENT FOR THE FINANCIAL 2012-13.

EXT.P2 COPY OF APPEAL MEMORANDUM AGAINST P1.

EXT.P2(a) COPY OF APPEAL MEMORANDUM AGAINST P1(a).

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

EXT.P3(a) COPY OF THE STAY PETITION IN EXT.P2(a) APPEAL.

EXT.P4 COPY OF DELAY CONDONATION PETITION IN EXT.P2.

EXT.P5 COPY OF NOTICE DATED 10-8-2015 ISSUED BY THE 1ST
RESPONDENT.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.27175 of 2015

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

J U D G M E N T

Against Exts.P1 and P1(a) assessment orders confirming a demand of service tax and penalty on the petitioner, the petitioner had preferred Exts.P2 and P2(a) appeals and Exts.P3 and P3(a) stay petitions before the 3rd respondent. Along with Ext.P2 appeal, he is also filed Ext.P4 delay condonation petition before the 3rd respondent. The petitioner apprehends that steps for recovery of the amounts confirmed against the petitioner by Exts.P1 and P1(a) assessment orders 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 and P3(a) stay petitions and Ext.P4 delay condonation petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Recovery steps for recovery of amounts confirmed against the petitioner by Exts.P1 and P1(a) orders 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

