

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

W.P. (C) .No. 28540 of 2015 (N)  
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PETITIONER :  
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M/S. EASTERN RETREADS PVT. LTD,  
VAZHAKULAM,  
MUVATTUPUZHA, PIN - 686 670  
REPRESENTED BY ITS AUTHORIZED REPRESENTATIVE  
(EXECUTIVE DIRECTOR) MR.NAIJU JOSEPH.

BY ADVS.SRI.JOY THATTIL ITTOOP  
SRI.A.G.ADITYA SHENOY  
SRI.BIJISH B.TOM

RESPONDENTS :  
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1. THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS ,  
OFFICE OF THE DEPUTY COMMISSIONER OF  
CENTRAL EXCISE AND CUSTOMS AT MUVATTUPUZHA,  
K.P.C. TOWERS,  
T.B.JUNCTION,  
MUVATTUPUZHA.
2. THE DEPUTY COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS ,  
OFFICE OF THE DEPUTY COMMISSIONER OF CENTRAL  
EXCISE AND CUSTOMS AT MUVATTUPUZHA  
K.P.C.TOWERS,  
T.B.JUNCTION,  
MUVATTUPUZHA.

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3. THE COMMISSIONER (APPEALS) ,  
OFFICE OF THE COMMISSIONER (APPEALS) OF  
CENTRAL EXCISE AND CUSTOMS  
I.S.PRESS ROAD, ERNAKULAM - 682 035.
4. THE SUPERINTENDENT OF CENTRAL EXCISE,  
OFFICE OF THE SUPERINTENDENT OF CENTRAL EXCISE,  
VALAMATTOM BUILDING,  
ARAKUZHA ROAD,  
P.O.JUNCTION,  
MUVATTUPUZHA - 686 661.

R1-R4 BY ADV. SRI.TOJAN J.VATHIKULAM,SC,C.B.,EXCISE  
BY SRI.THOMAS MATHEW NELLIMOOTTIL,SC,C.B.,EXCISE  
BY GOVERNMENT PLEADER : SRI.LIJU.V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 22-09-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

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W.P. (C) .No. 28540 of 2015 (N)

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APPENDIX

PETITIONER'S EXHIBITS

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- EXT.P1      TRUE COPY OF THE SHOW CAUSE NO.8/2014/T DATED  
             04.04.2014 ISSUED BY THE 1ST RESPONDENT.
- EXT.P2      TRUE COPY OF THE REPLY ISSUED TO THE SHOW CAUSE  
             NO.8/2014/T DATED 04.04.2014.
- EXT.P3      TRUE COPY OF THE ORDER IN ORIGINAL NO.31/2014 DATED  
             31.12.2014 ISSUED BY THE 2ND RESPONDENT.
- EXT.P4      TRUE COPY OF THE APPEAL BEARING NO.31/2014 ON THE  
             FILES OF THE 3RD RESPONDENT.
- EXT.P5      TRUE COPY OF THE COMMUNICATION BEARING  
             NO.OC.NO.316/2015 DATED 12.08.2015 BY THE  
             4TH RESPONDENT.

RESPONDENT'S EXHIBITS : NIL

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//TRUE COPY//

P.A. TO. JUDGE

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

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**W.P.(C).NO.28540 OF 2015 (N)**  
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**Dated this the 22<sup>nd</sup> day of September, 2015**

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

Against Ext.P3 order confirming a demand of service tax and penalty on the petitioner, the petitioner has preferred Ext.P4 appeal and stay petition before the 3<sup>rd</sup> respondent. The grievance of the petitioner is that even prior to considering the stay petition, recovery steps are taken by the respondent to recover the amount as confirmed against the petitioner by Ext.P3 order by issuing Ext.P5 demand notice.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

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

1. The 3<sup>rd</sup> respondent shall consider and pass orders on the stay application preferred by the petitioner along with Ext.P4 appeal within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

2. Coercive steps for recovery of amounts confirmed against the petitioner pursuant to Ext.P3 order shall be kept in abeyance till orders are passed by the 3<sup>rd</sup> respondent as directed above and communicated to the petitioner.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

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