IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 29023 of 2015 (C)

PETITIONER :

THE SERVICE CO-OPERATIVE BANK LIMITED
NO. F 583, ABDUL RAHAMAN NAGAR, A.R. NAGAR P.O.,
MALAPPURAM DISTRICT REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS :

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1. **THE ADDITIONAL COMMISSIONER,**
   OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE,
   CUSTOMS SERVICE TAX, OFFICE MANANCHIRS,
   KOZHIKODE - 673001.

2. **THE COMMISSIONER (APPEALS),**
   OFFICE OF THE COMMISSIONER OF CUSTOMS,
   CENTRAL EXCISE & SERVICE TAX (APPEALS),
   C.R. BUILDINGS, I.S. PRESS ROAD, KOCHI - 682018.

R1 & R2 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC,

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

<u>**WP(C).No. 29023 of 2015 ©**</u>

<u>APPENDIX</u>

<u>PETITIONER'S EXHIBBITS</u> :

P1: COPY OF ORDER DT 9/7/2015.

P2: COPY OF THE APPEAL FILED BEFORE THE R2 AGAINST EXT P1 ORDER.

P3: COPY OF THE STAY PETITION FILED BEFORE THE R2.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No.29023 of 2015

Dated this the 1st day of October, 2015

<u>JUDGMENT</u>

Against Ext.P1 assessment order confirming a demand of service tax and penalty on the petitioner, the petitioner had preferred Ext.P2 appeal together with Ext.P3 stay petition before the 2nd respondent. It is the case of the petitioner that, even prior to considering Ext.P3 stay petition, recovery steps are taken by the respondents for recovery of the amounts confirmed against the petitioner by Ext.P1 assessment order.

2. I have heard the learned counsel appearing for the petitioner and also the learned Standing Counsel appearing for the respondents.

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:

> 1. Inasmuch as this Court has taken a view that appeals to be filed, against orders passed in respect of show cause notices issued prior to 16.8.2014, the date of the amendment to the Finance Act, 1994, requiring pre-deposit of amounts as a condition for

maintaining the appeals, will not be affected by the said amendment, there will be a direction to the 2nd respondent to 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.

2.Recovery steps for recovery of amounts confirmed against petitioner pursuant to Ext.P1 assessment order shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

rsr