

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937**

**WP(C).No. 29275 of 2015 (H)**  
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**PETITIONER:**  
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**THE PARAPPANANGADI SERVICE CO-OPERATIVE  
BANK LTD.NO.F 2302, P.O.PARAPPANANGADI,  
MALAPPURAM DISTRICT,  
RREPRESENTED BY ITS SECRETARY.**

**BY ADV. SRI.O.D.SIVADAS**

**RESPONDENT(S):**  
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- 1. THE COMMISSIONER,  
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE,  
CUSTOMS SERVICE TAX OFFICE, MANANCHIRA,  
KOZHIKODE - 673 001.**
- 2. THE CUSTOMS,  
CENTRAL EXCISE AND SERVICE APPELLATE TRIBUNAL,  
WORLD TRADE CENTRE, SOUTH ZONE,  
KEMPEGOWDA ROAD, BANGALORE - 560 009.**

**BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**mbr/**

**APPENDIX**

**PETITIONERS' EXHIBITS:**

- EXT. P1 : TRUE COPY OF ORDER DATED 31.3.2015.
- EXT. P2 : TRUE COPY OF THE APPEAL DATED 9.9.2015 FILED BEFORE THE  
2ND RESPONDENT.
- EXT. P3 : TRUE COPY OF THE STAY PETITION DATED 9.9.2015.
- EXT. P4 : TRUE COPY OF THE DELAY PETITION DATED 9.9.2015.

**RESPONDENTS' EXHIBITS:** NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

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

.....  
W.P.(C).No.29275 of 2015

.....  
Dated this the 28<sup>th</sup> day of September, 2015

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

Against Ext.P1 order confirming a demand of service tax and penalty on the petitioner, the petitioner had preferred Ext.P2 appeal and Ext.P3 stay petition along with Ext.P4 delay condonation petition before the 2<sup>nd</sup> respondent appellate Tribunal. The apprehension of the petitioner is that even before considering the stay petition, recovery steps will be initiated against the petitioner for recovery of the amounts confirmed against him by Ext.P1 assessment order against which Ext. P2 appeal has been filed.

2. Heard the learned counsel for the petitioner and 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. 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 16.08.2014, 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 2<sup>nd</sup> respondent Tribunal to treat Ext.P2 appeal as one filed in terms of the Finance Act, 1994, as amended and to consider and pass orders on Ext.P4 delay condonation petition and 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. Recovery steps for recovery of amounts confirmed against the petitioner pursuant to Ext.P1 order shall be kept in abeyance till orders are passed by the 2<sup>nd</sup> respondent as directed and communicated to the petitioner.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

mns



