

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 29443 of 2015 (E)

PETITIONER:

**M/S. INDAM RECYCLING CO.(P) LTD. AGED 51 YEARS
PLOT NO.27 A, UNITY HOUSE, INDIRA GANDHI ROAD
WILLINGDON ISLAND, COCHIN - 682 003
REPRESENTED BY ITS MANAGING DIRECTOR, SRI.BETHUSAMI BETHURAJ**

BY ADV. SRI.S.R.DAYANANDA PRABHU

RESPONDENTS:

- 1. THE COMMISSIONER OF CUSTOMS,
CUSTOMS HOUSE, COCHIN - 682 009**
- 2. CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REPRESENTED BY ITS REGISTRAR, SOUTH ZONAL BENCH
1ST FLOOR, WTC BUILDING, FKCCI COMPLEX,
K.G. ROAD, BANGALORE 560 009.**

**R1 BY ADV. SRI.JOHN VARGHESE,SC,CEN.BOARD OF EXCIS
R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
BY SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF ORDER NO.9/2007 DATED 30.3.2007 PASSED BY THE 1ST RESPONDENT
- P2 : TRUE COPY OF THE APPEAL NO.609/2007 DATED 6.7.2007 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT
- P3 : TRUE COPY OF PETITION NO.239/2007 DT.6.9.2007 TO DISPENSE WITH PAYMENT OF PENALTY UNDER SECTION 129(E) OF CUSTOMS ACT 1962 FILED BEFORE THE 2ND RESPONDENT
- P4 : TRUE COPY OF JUDGMENT DATED 18.7.2014 IN WP(C) NO.6939/2013 OF HON'BLE HIGH COURT OF KERALA
- P5 : TRUE COPY OF STAY ORDER DT.17.06.2015 PASSED BY 2ND RESPONDENT
- P6 : TRUE COPY OF INVENTORY DATED 29.8.2003 OF GOODS PUT FOR SALE BY 1ST RESPONDENT
- P7 : TRUE COPY OF SALE BILL DATED 26.3.2004 REALISING RS.10,65,717/- BY THE 1ST RESPONDENT
- P8 : TRUE COPY OF SALE BILL DATED 27.05.2004 REALISING RS.5,18,816/- BY THE 1ST RESPONDENT
- P9 : TRUE COPY OF SALE BILL DATED 27.5.2004 REALISING RS.1,30,541/- BY THE 1ST RESPONDENT
- P10 : TRUE COPY OF SALE BILL DATED 27.5.2004 REALISING RS.8,10,650/- BY THE 1ST RESPONDENT
- P11 : TRUE COPY OF THE SALE BILL DATED 27.5.2004 REALISING RS.3,81,790/- BY THE 1ST RESPONDENT
- P12 : TRUE COPY OF SALE BILL DATED 27.05.2004 REALISING RS.209,985/- BY THE 1ST RESPONDENT
- P13 : TRUE COPY OF SALE BILL DATED 7.6.2004 REALISING RS.2,79,773/- BY THE 1ST RESPONDENT
- P14 : TRUE COPY OF SALE BILL DATED 27.8.2004 REALISING RS.2,82,629/- BY THE 1ST RESPONDENT

- P15 : TRUE COPIES OF COVERING LETTER DT.3.7.2007 ENCLOSING COPIES OF EXT.P6 TO P14 ISSUED BY 1ST RESPONDENT TO THE PETITIONER**
- P16 : TRUE COPY OF COVERING LETTER DATED 19.6.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER**
- P17 : TRUE COPY OF THE LETTER DATED 13.05.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER**

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 29443 of 2015 (E)

Dated this the 16th day of October, 2015

J U D G M E N T

The petitioner is aggrieved with the Interim Order passed at Ext.P5, specifically in C/Stay/239/2007, wherein the petitioner was directed to pay Rs.10 lakhs as a condition of hearing the appeal.

2. The petitioner's contention was that, in fact, goods were seized and sold, which fetched an amount of about Rs.55 lakhs to the Department, which, after adjusting the duty of the said goods would be sufficient to satisfy the condition levied.

3. In such circumstance, the condition in the order, in the aforesaid petition, shall stand deleted. The appellate authority shall consider the appeal itself on merit. The credit of the amounts already received by the Department shall be considered at the time of disposal of the appeal.

The writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE

//True Copy//

P.A. to Judge