

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 31168 of 2014 (U)

PETITIONER(S) :

**SOLVAR WIRES PRIVATE LIMITED,
HAVING ITS REGISTERED OFFICE AT 39/5527 A-9,
BASEMENT FLOOR, SOUTH SQUARE, KOCHI-682 036,
REPRESENTED BY ITS DIRECTOR SRI. BOBBY JOSE.**

**BY ADVS.SRI.ASWIN GOPAKUMAR
SRI.ANWIN GOPAKUMAR
SMT.KALA G.NAMBIAR
SRI.K.AMAL NATH NAIK
SRI.ARJUN RADHAKRISHNAN NAIR
SMT.ANUSREE SURESH**

RESPONDENT(S) :

- 1. THE COMMISSIONER OF CENTRAL EXCISE,
COCHIN COMMISSIONERATE, CENTRAL REVENUE BUILDING,
I.S. PRESS ROAD, KOCHI-682 018.**
- 2. THE COMMISSIONER OF CENTRAL EXCISE(APPEALS),
CENTRAL REVENUE BUILDING, I.S.PRESS ROAD,
KOCHI-682 018.**
- 3. THE DEPUTY COMMISSIONER OF CENTRAL EXCISE,
CENTRAL EXCISE BHAVAN, ERNAKULAM-II DIVISION,
KATHRIKADAVU, KOCHI-682 017.**
- 4. INDIAN BANK,
HAVING ITS BRANCH AT VENKAT TOWERS, M.G.ROAD,
PALLIMUKKU, KOCHI-682 016,
REPRESENTED BY ITS CHIEF MANAGER.**

**R1 TO R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, S.C
R4 BY ADV. SRI.S.EASWARAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE (COMMON) ORDER-IN-APPEAL DATED 12-11-2008
PASSED BY THE 2ND RESPONDENT IN THE STATUTORY APPEALS FILED BY
THE PETITIONER.**
- P2: TRUE COPY OF THE FINAL ORDER DATED 20-05-2014 PASSED BY
THE CESTAT, SZB, BANGALORE SETTING ASIDE EXT.P1 ORDER.**
- P3. TRUE COPY OF THE LETTER DATED 17-11-2014 ISSUED BY
THE 4TH RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31168 OF 2014 (U)

Dated this the 10th day of March, 2015

J U D G M E N T

The petitioner, who had approached this Court challenging the action taken by the respondent authorities under the Central Excise Department for recovery of central excise dues that were confirmed against the petitioner, now seeks some time for approaching the Appellate Tribunal through appeals against the orders that have been communicated to him. It is stated that in respect of 22 orders-in-original that were passed against the petitioner, he had preferred appeals before the first appellate authority, and the first appellate authority has now confirmed the demand against him through the following orders:

Order-in-Appeals (After Remand) No.
Order in Appeal No.149 to 156/2014 - C.E dated 29.10.2014
Order in Appeal No.157 to 161/2014 - C.E dated 13.11.2014
Order in Appeal No.162/2014 - C.E dated 13.11.2014
Order in Appeal No.164/2014 - C.E dated 26.11.2014
165 & 166/2014 - C.E dated 26.11.2014
167 to 171/2014 - C.E dated 26.11.2014.

2. The limited prayer urged by the petitioner, at this stage, is for keeping in abeyance the recovery proceedings initiated by the respondents for a period of one month so as to enable the petitioner to file appeals against the aforesaid orders of the first appellate authority before the Appellate Tribunal, under the Central Excise Act.

3. I have heard Sri.Aswin Gopakumar, the learned counsel appearing for the petitioner, Sri.Thomas Mathew Nellimoottil, the learned Standing counsel appearing for the respondents as also Sri.S.Easwaran, the learned Standing counsel appearing for the respondent bank.

4. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that the interest of justice would be served by permitting the petitioner to approach the Appellate Tribunal through appeals and stay petitions filed against the orders of the first appellate authority that have been served on him. Accordingly, I dispose the writ petition with the following directions:-

- (i) If the petitioner files appeals against the said order-in-appeals within a period of one month from the date of receipt of a copy of this judgment, then the Appellate authority shall number the appeals, stay applications and

applications for condonation of delay by treating them as having been filed in accordance with the erstwhile provisions under the Central Excise Act, prior to the amendment in August, 2014.

(ii) I make it clear that the recovery proceedings initiated by the respondents against the petitioner shall be kept in abeyance for the aforesaid period of one month from today.

(iii) The respondents shall lift the attachment over the current account maintained by the petitioner with the 4th respondent bank, so as to enable the petitioner to utilise the amounts therein for pursuing his appellate remedy. As regards the attachment over the fixed deposits of the petitioner with the respondent bank, the same shall continue and be subject to the outcome of the orders passed by the Appellate Tribunal in the appeals to be preferred by the petitioner.

(iv) It is further made clear that the stay granted in this judgment shall cease to operate on the expiry of the period of one month mentioned in the judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE