

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 35065 of 2015 (G)

PETITIONER(S):

**FEMITHA NAZEER, KUNNAPPILLIL HOUSE,
HARITHA ROAD, EDAPPALLY SOUTH,
VENNALA P.O., ERNAKULAM-682 024,
REPRESENTED BY POWER OF ATTORNEY HOLDER
K.M. NAZEER.**

**BY ADVS.SRI.HARISANKAR V. MENON,
SMT.MEERA V.MENON,
SRI.JITHIN PAUL VARGHESE,
SRI.K.SUNIL.**

RESPONDENT(S):

- 1. THE SUPERINTENDENT OF CENTRAL EXCISE,
SERVICE TAX RANGE, CENTRAL EXCISE BHAVAN,
KATHRIKKADAVU, KOCHI-682 017.**
- 2. COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS & SERVICE TAX (APPEALS),
IS PRESS ROAD, ERNAKULAM, KOCHI-18.**
- 3. THE ASST. COMMISSIONER OF CENTRAL EXCISE,
CENTRAL EXCISE BHAVAN, KATHRIKADAVU,
KALOOR, KOCHI-17.**
- 4. THE BRANCH MANAGER, ICICI BANK,
NATIONAL HIGHWAY BYE PASS BRANCH,
SOBHA ROAD, VANNALA P.O., ERNAKULAM-682 028.**

**R1 TO R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC.
R4 BY ADV. SRI.LAL K.JOSEPH, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT FOR
THE PERIOD 2ND HALF 2012-13, 2013-14 AND 1ST HALF 2014-15
DATED 07/04/2015.
- EXT.P2 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT DATED 30/09/2015.
- EXT.P3 COPY OF THE STAY APPLICATION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DATED 30/09/2015.
- EXT.P4 COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT
DATED 12/11/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
=====

W.P.(C). No. 35065 of 2015
=====

Dated this the 20th day of November, 2015

JUDGMENT

Against Ext.P1 order of penalty passed under the Finance Act, 1994, as amended, read with the Service Tax Rules, the petitioner preferred Ext.P2 appeal and Ext.P3 stay petition before the 2nd respondent. The grievance of the petitioner is that even before considering the stay petition, the respondents are taking steps to recover the amounts confirmed against the petitioner by Ext.P1 order.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with a direction to the 2nd respondent to consider and pass orders on Ext.P3 stay petition, preferred by the petitioner before him, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner. Coercive steps pursuant to Ext.P4 notice, shall be kept in abeyance till such time

W.P.(C). No. 35065 of 2015

as the 2nd respondent passes orders, as directed, in Ext.P3 stay petition and communicates the same to the petitioner.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /20.11.15