

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

WP(C).No. 35575 of 2015 (V)

PETITIONER:

**THE RAMAPURAM SERVICE CO-OPERATIVE
BANK LIMITED NO.F 583, ABDU RAHMAN NAGAR,
A.R.NAGAR P.O., MALAPPURAM DISTRICT,
REPRESENTED BY ITS SECRETARY.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):

- 1. THE ADDITIONAL COMMISSIONER,
OFFICE OF THE COMMISSIONER OF
CENTRAL EXCISE, CUSTOMS SERVICE TAX
OFFICE, MANANCHIRA, KOZHIKODE - 673 001.**
- 2. THE COMMISSIONER (APPEALS), OFFICE OF
THE COMMISSIONER OF CUSTOMS,
CENTRAL EXCISE AND SERVICE TAXES (APPEALS),
C.R.BUILDINGS, I.S.PRESS ROAD, KOCHI-682 018.**

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF ORDER DATED 28.9.2015.
- EXT. P2 : TRUE COPY OF THE APPEAL FILED BEFORE THE 2ND RESPONDENT
AGAINST EXT. P1 ORDER.
- EXT. P3 : TRUE COPY OF THE STAY PETITION FILED BEFORE THE
2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 35575 of 2015

Dated this the 24th day of November, 2015

JUDGMENT

Against Ext.P1 order-in-original under the Finance Act, 1994 as amended, the petitioner preferred Ext.P2 appeal and Ext.P3 stay petition before the 2nd respondent. It is the case of the petitioner that even before the consideration of the stay petition by the 2nd respondent, recovery steps have been initiated against him for recovery of the amount confirmed by Ext.P1 order-in-original.

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

3. On a consideration of the facts and circumstances of the case and 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 16.8.2014, 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, preferred by the petitioner before him, 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 by Ext.P1 order-in-original, shall be kept in abeyance till such time 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