IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

WP(C).No. 204 of 2015 (A)

PETITIONER(S):

M/S.CHANDRALEKHA CONSTRUCTIONS PVT. LTD.,
PEEVEES ARCADE, 4/14 C, VELLOORKUNNAM VILLAGE IV,
ONEWAY JUNCTION, KOTHAMANGALAM ROAD
MARKET P.O., MUVATTUPUZHA, REP.BY ITS DIRECTOR.

BY ADV. SRI.G.KRISHNAKUMAR

RESPONDENT(S):
----

1. DEPUTY COMMISSIONER OF COMMERCIAL TAXES (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM-682 035.

2. ASSISTANT COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM-682 035.

3. COMMERCIAL TAX OFFICER
MATTANCHERRY, KOCHI-682 002.

BY SENIOR GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 204 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : **COPY OF THE ASSESSMENT ORDER DTD.10.7.2014 ISSUED BY THE 3RD RESPONDENT FOR THE 4TH QUARTER OF 2012-2013.**

P2 : **COPY OF THE APPEAL MEMORANDUM CHALLENGING EXT.P1.**

P3 : **COPY OF THE STAY PETITION FILED IN EXT.P2 APPEAL.**

P4 : **COPY OF THE ASSESSMENT ORDER DTD.10.7.2014 FOR THE QUARTER I,II & III OF 2013-2014.**

P5 : **COPY OF THE APPEAL MEMORANDUM FILED CHALLENGING EXT.P4 ORDER.**

P6 : **COPY OF THE STAY PETITION FILED IN EXT.P5 APPEAL.**

P7 : **COPY OF THE ASSESSMENT ORDER DTD.20.9.2014 ISSUED BY THE 3RD RESPONDENT, FOR THE 4TH QUARTER OF 2013-2014.**

P8 : **COPY OF THE ASSESSMENT ORDER ISSUED BY THE 3RD RESPONDENT FOR THE 4TH QUARTER OF 2013-2014.**

P9 : **COPY OF THE STAY PETITION FILED IN EXT.P8 APPEAL.**

P10 : **COPY OF THE ORDER DTD.19.12.2014 OF THE 2ND RESPONDENT IN EXT.P3 STAY PETITION.**

P11 : **COPY OF THE ORDER DTD.19.12.2014 OF THE 2ND RESPONDENT IN EXT.P6 STAY PETITION.**

P12 : **COPY OF THE ORDER DTD.19.12.2014 OF THE 2ND RESPONDENT IN EXT.P9 STAY PETITION.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No. 204 of 2015 (A)

..

Dated this the 6th day of January, 2015

JUDGMENT

Against Exts.P1, P4 and P7 assessment orders, the petitioner had preferred Exts.P2, P5 and P8 appeals along with Exts.P3, P6 and P9 petitions for stay, before the second respondent. The second respondent has now passed Exts.P10 to P12 orders on the stay petitions, directing the petitioner to pay 30% of the amount as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Exts.P1, P4 and P7 assessment orders.

2. In the writ petition, the petitioner impugns the said conditional order of stay, inter alia, on the ground that the second respondent has not exercised his discretion validly while passing the said order.

3. Heard Sri.G.Krishna Kumar, the learned counsel appearing for petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader appearing for respondents.

4. On a consideration of the facts and circumstances of the case and submissions made across the bar, I dispose the writ petition with the following directions:-

   (i) In Ext.P10 to P12 orders, the second respondent does not state reasons as to why the petitioner was required to deposit the amounts as a condition for the grant of stay. This Court has held in **Archana Agencies vs. Commecial Tax Officer** (2014 (2) KLT 715) that an authority considering a stay petition is bound to give reasons even while granting conditional stay.

(ii) Ext.P10 to P12 orders are quashed and the second respondent is directed to reconsider the matter and pass fresh orders in the stay petitions filed by the petitioner, within one month from the date of receipt of a copy of this judgment after affording an opportunity of hearing to the petitioner.

(iii) Recovery steps, if any, initiated against the petitioner shall be kept in abeyance till such time as fresh orders are passed by the second respondent, as directed above, and communicated to the petitioner.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/07/01/