

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

WP(C).No. 1241 of 2015 (E)

PETITIONER(S) :

**M/S. ASIATIC EXPORT ENTERPRISES,
KILIKOLLOOR, KOLLAM REPRESENTED BY NARAYAN BHARATHAN,
PARTNER.**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON**

RESPONDENT(S) :

- 1. THE ASST. COMMISSIONER-II,
COMMERCIAL TAXES SPECIAL CIRCLE, KOLLAM-690 001.**
- 2. DEPUTY COMMISSIONER (APPEALS)-1 DEPARTMENT
OF COMMERCIAL TAXES, KOLLAM-690 001.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT
DATED 06.08.2014**
- EXT.P2: COPY OF APPEAL FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT DATED 25.08.2014.**
- EXT.P3: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT
DATED 30.12.2014.**
- EXT.P4: COPY OF JUDGMENT IN WP(C) NO.24845/14 OF THIS HON'BLE COURT
DATED 08.10.2014.**
- EXT.P4(A): COPY OF JUDGMENT IN W.P.(C) NO.34040/14 OF THIS HON'BLE COURT
DATED 18.12.2014.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1241 OF 2015

Dated this the 14th day of January, 2015

J U D G M E N T

Against Ext.P1 assessment order, petitioner preferred Ext.P2 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred a stay petition. The 2nd respondent has now passed Ext.P3 order on the stay petition 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 Ext.P1 assessment order.

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

3. Heard Sri.Harisankar V.Menon, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned counsel 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.P3 order, the 2nd 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 v Commercial 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.P3 order is quashed and the 2nd respondent is directed to reconsider the matter and pass fresh orders in the stay petition, within one month from the date of receipt of a copy of this judgment after hearing 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 2nd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

