

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 1561 of 2015 (U)

PETITIONER(S):

**M/S. VALIYAVEETIL INDUSTRIES
KIZHAVOOR, MUKHATHALA, KOLLAM DISTRICT
REPRESENTED BY ABDUL SALIM, MANAGIND PARTNER.**

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

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER
KUNDARA-691501.**
- 2. KERALA VALUE ADDED TAX APPELLATE TRIBUNAL,
ADDITIONAL BENCH, THIRUVANANTHAPURAM
REPRESENTED BY ITS ASST. SECRETARY- 695001.**

BY GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DT.25/3/13

EXHIBIT P1(A) COPY FO THE ORDER ISSUED BY THE 1ST RESPONDENT DT. 6/3/13

**EXHIBIT P2: COPY OF APPELLATE ORDER PASSED BY THE DEPUTY
COMMISSIONER (APPEALS) KOLLAM DT.16/10/14**

**EXHIBIT P2(A): COPY OF APPELLATE ORDER PASSED BY THE DEPUTY
COMMISSIONER (APPEALS) KOLLAM DT.16/10/14**

EXHIBIT P3: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DT.12/11/14

EXHIBIT P3(A):COPY FO ORDER ISSUED BY THE 1ST RESPONDENT DT.12/11/14

**EXHIBIT P4: COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND
RESPONDENT DT.30/10/14**

**EXHIBIT P4(A): COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND
RESPONDENT DT.30/10/14**

EXHIBIT P5: COPY OF STAY PETITION FILED BY THE PETITIONER 30/10/14

EXHIBIT P5(A) COPY OF STAY PETITION FILED BY THE PETITIONER DT.30/10/14

**EXHIBIT P6: COPY OF ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT IN
THE CASE OF G.RAJEEV DT.27/5/11**

EXHIBIT P7: COPY OF ORDER PASSED BY THE 2ND RESPONDENT MDT.26/11/14

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1561 OF 2015

Dated this the 16th day of January, 2015

J U D G M E N T

Against Exts.P2 and P2(a) appellate orders, petitioner preferred Exts.P4 and P4(a) appeals before the 2nd respondent Tribunal. Along with the appeals, the petitioner had also preferred Exts.P5 and P5(a) stay petitions. The 2nd respondent has now passed Ext.P7 order on the stay petition directing the petitioner to pay 50% of the amount as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Exts.P2 and P2(a) appellate orders.

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 Government Pleader 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.P7 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.P7 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

