

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. 1626 of 2015 (C)

PETITIONER(S):

**SOWPARNIKA PROJECTS AND INFRASTRUCTURES PVT.LTD.,
T.C NO.V-2342-A-26, 1ST FLOOR, GOLF LINKS ROAD,
KOWDIAR GARDENS, THIRUVANANTHAPURAM,
REPRESENTED BY ITS AUTHORISED SIGNATORY (OPERATIONS)
SRI.AJITH PRASAD A.R.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR**

RESPONDENT(S):

- 1. THE INTELLIGENCE OFFICER,
SQUAD NO.1, COMMERCIAL TAXES, PUBLIC OFFICE BUILDING,
THIRUVANANTHAPURAM- 695 033.**
- 2. THE COMMERCIAL TAX OFFICER (WORKS CONTRACT),
TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM- 695 002.**
- 3. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, TAX TOWERS, KARAMANA,
THIRUVANANTHAPURAM- 695 002.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

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

Msd.

WP(C).No. 1626 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: COPY OF ORDER 29-09-2014 ISSUED BY THE 1ST RESPONDENT.**
- EXT.P2: COPY OF REVISION PETITION AGAINST EXT.P1.**
- EXT.P3: COPY OF PETITION FOR STAY FILED IN EXT.P2 REVISION.**
- EXT.P4: COPY OF STAY ORDER DATED 03-12-2014 ISSUED BY
THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1626 OF 2015

Dated this the 16th day of January, 2015

J U D G M E N T

Against Ext.P1 penalty order, petitioner preferred Ext.P2 revision before the 3rd respondent. Along with the revision, the petitioner had also preferred Ext.P3 stay petition. The 3rd respondent has now passed Ext.P4 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 penalty 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.S.Anilkumar, 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.P4 order, the 3rd 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.P4 order is quashed and the 3rd 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 3rd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

