IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 2114 of 2015 (L)

PETITIONER :

M/S.LAVASA VISUAL PVT LTD.,
APARTMENT NO.36/114, 2ND FLOOR VAIDYAR LANE,
INDIRA NAGAR, KALOOR KOCHI,
REPRESENTED BY ITS DIRECTOR MS.NISHA V.S.

BY ADV. SMT.K.LATHA

RESPONDENTS :

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1. **STATE OF KERALA**
   REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF KERALA,
   SECRETARIAT, THIRUVANANTHAPURAM

2. **THE INTELLIGENCE OFFICE IB,**
   MATTANCHERRY, DEPARTMENT OF COMMERCIAL TAXES,
   MATTANCHERRY AT ALUVA

3. **THE DEPUTY COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, ERNAKULAM 682018

4. **INSPECTING ASST. COMMISSIONER,**
   COMMERCIAL TAXES, KAKKANAD, ERNAKULAM 682030

BY SENIOR GOVERNMENT PLEADER SMT. SHOBA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 2114 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1:	**THE TRUE COPY OF THE PENALTY ORDER NO.IBM/111/IR 82/14-15/OR 50/14-15 DATED 11.11.2014 IMPOSING PENALTY OF RS. 6,15,542/- ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.**
EXT P2:	**THE TRUE COPY OF THE APPEAL IN FORM 29 AND GROUND OF APPEAL FILED BY THE PETITIONER AGAINST THE P1 PENALTY ORDER.**
EXT P3:	**THE TRUE COPY OF THE STAY ORDER NO.RP.671/2014 DATED 18.12.2014 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER.**
EXT P4:	**THE TRUE COPY OF THE DEMAND NOTICE IN FORM NO.12 IMPOSING PENALTY OF RS.6,15,542/- AS ARISED OUT OF THE P1 PENALTY ORDER ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.2114 of 2015

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Dated this the 21st day of January, 2015

<u>J U D G M E N T</u>

Against Ext.P1 penalty order, petitioner preferred Ext.P2 revision before the 3rd respondent. Along with the revision, the petitioner had also sought for a stay. The 3rd respondent has now passed Ext.P3 order on the stay petition directing the petitioner to pay Rs.1,50,000/- 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 3rd respondent had not exercised his discretion validly while passing the said order.

3. Heard Smt.Latha.K., 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.P3 order, the 1st 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 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/