

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

WP(C).No. 2959 of 2015 (T)

PETITIONER :

**M/S. DEN NETWORKS LTD.,
DR.KOSHY'S ARCADE, 2ND FLOOR, PLOT NO. 153/8,
A2, OPP. OBERON MALL, BYEPASS ROAD,
EDAPPALLY, KOCHI - 24, REPRESENTED BY JAIFER V.K.,
GENERAL MANAGER - OPERATIONS.**

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

RESPONDENTS:

- 1. THE COMMERCIAL TAX OFFICER,
2ND CIRCLE, KALAMASSERY AT CIVIL STATION,
KAKKANADU, KOCHI - 30.**
- 2. THE ASST. COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM - 682 015.**
- 3. INSPECTING ASST. COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM - 689 015.**

R1 TO R3 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT. DATED 31/10/14

EXT.P1(A): COPY OF ORDER ISSUED BY THE 1ST RESPONDENT. DATED 31/10/14.

EXT.P2: COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND
RESPONDENT. DATED 02/12/2014.

EXT.P2(A): COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND
RESPONDENT. DATED 02/12/2014.

EXT.P3: COPY OF STAY PETITION FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT. DATED 02/12/2014

EXT.P3(A): COPY OF STAY PETITION FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT. DATED 02/12/2014

EXT.P4: COPY OF ORDER ISSUED BY THE PETITIONER 2ND RESPONDENT.
DATED 09/01/2015.

EXT.P4(A); COPY OF ORDER ISSUED BY THE PETITIONER 2ND RESPONDENT.
DATED 09/01/2015.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.2959 of 2015 (T)
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Dated this the 30th day of January, 2015

JUDGMENT

Against Exts.P1 and P1(a) Assessment orders, petitioner preferred Exts.P2 and P2(a) appeals before the second respondent. Along with the appeals, he had also preferred Exts.P3 and P3(a) stay petitions. The second respondent has now passed Exts.P4 and P4(a) interim 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 and P1(a) assessment orders.

2. In the writ petition, the petitioner impugns the said conditional orders 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.Harisankar V. Menon, 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 Exts.P4 and P4(a) 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. 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) Exts.P4 and P4(a) 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, 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