

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 4419 of 2015 (B)

PETITIONER(S):

**KSHAMA MASOOD, D/O. MASOOD,
PROPRIETRIX, WOOD ART PLYWOOD,
PALARIVATTOM, ERNAKULAM.**

BY ADV. SRI.ANCHAL C.VIJAYAN.

RESPONDENT(S):

- 1. THE ASSISTANT COMMISSIONER (APPEALS),
OFFICE OF THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, COMMERCIAL TAX COMPLEX,
ERNAKULAM, PIN:682 015.**
- 2. THE COMMERCIAL TAX OFFICER,
IIND CIRCLE, KALAMASSERY AT KAKKANAD, PIN:683 104.**

BY GOVT. PLEADER SMT.SHOBA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 4419 of 2015 (B)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1: TRUE COPY OF THE ORDER NO.32071367676/12-13
DATED 21.08.2014 ISSUED BY THE 2ND RESPONDENT.**

**EXHIBIT P2: TRUE COPY OF THE NOTICE OF DEMAND NO.112/2014-2015
DATED 11.09.2014 ISSUED BY THE 2ND RESPONDENT TO THE
PETITIONER.**

**EXHIBIT P3: TRUE COPY OF THE APPEAL, APPLICATION FOR STAY AND
APPLICATION FOR URGENT DISPOSAL OF THE APPEAL.**

**EXHIBIT P4: TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT
IN KVATA-2732/14 DATED 08.01.2015.**

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.4419 of 2015
.....

Dated this the 11th day of February, 2015

JUDGMENT

Against Ext.P1 Assessment order, petitioner preferred Ext.P3 appeal along with application for stay before the 1st respondent. The 1st 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 assessment order.

2. In the writ petition, the petitioner impugns the said conditional order of stay, inter alia, on the ground that the 1st respondent had not exercised his discretion validly while passing the said order.

3. Heard Sri.Anchal C.Vijayan, the learned counsel for petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the 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 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.P4 order is quashed and the 1st 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 1st respondent as directed
above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

