

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C).No. 4855 of 2015 (F)

PETITIONER:

**LOUJITH K.P., AGED 32 YEARS,
S/O.RAMAKRISHNAN NAIR, "KALA SADAN",
P.O.THIMIRI, VIA.CHERUVATHUR,
KASARAGOD DISTRICT-671 313.**

**BY DR.K.B.MUHAMED KUTTY (SENIOR ADVOCATE)
ADVS. SRI.K.M.FIROZ
SMT.M.SHAJNA**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER - I,
COMMERCIAL TAXES, HOSDURG- 671 315.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOZHIKODE - 673 001.**

BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 4855 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1 : A TRUE COPY OF THE ASSESSMENT ORDER PASSED BY THE
 1ST RESPONDENT FOR THE YEAR 2012-13 DATED 2-7-2014 ALONG
 WITH DEMAND NOTICE.

EXT.P2 : TRUE COPY OF THE APPEAL PETITION DATED 12-1-2015 AGAINST
 THE ASSESSMENT ORDER FOR THE YEAR 2012-13 FILED BY THE
 PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P3 : A TRUE COPY OF THE STAY ORDER DATED 20-1-2015 PASSED BY THE
 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.4855 of 2015

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Dated this the 18th day of February, 2015

J U D G M E N T

Against Ext.P1 assessment order, petitioner preferred Ext.P2 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred a stay petition. The 2nd respondent has now passed Ext.P3 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 2nd respondent had not exercised his discretion validly while passing the said order.

3. Heard Sri.Firoz K.M., the learned counsel for petitioner and Sri.Sudeesh Kumar, the learned counsel 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.P3 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.P2 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

