

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 5171 of 2015 (V)

PETITIONER :

**M/S.FLOORATEX RUBBER AND PLASTICS (P) LTD.,
P.R.P. TOWER, PARK JUNCTION, KAYAMKULAM,
REPRESENTED BY P.R.NAG, MANAGING DIRECTOR.**

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

RESPONDENTS :

- 1. COMMERCIAL TAX OFFICER-1, KAYAMKULAM
690502.**
- 2. DEPUTY COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES, KOLLAM-691001.**

BY GOVERNMENT PLEADER SRI. S. SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: COPY OF FORM NO.13A FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXHIBIT P2: COPY OF REPLY FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT WITH THE CALCULATION STATEMENT DATED 1.12.2014.
- EXHIBIT P3: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED 4.12.2014.
- EXHIBIT P4: COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 22.12.2014.
- EXHIBIT P5: COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 31.1.2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.5171 of 2015

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Dated this the 19th day of February, 2015

J U D G M E N T

Against Ext.P3 Assessment order, petitioner preferred Ext.P4 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred a stay petition. The 2nd respondent has now passed Ext.P5 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.P3 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.Harisankar V.Menon, the learned counsel for the petitioner and Sri.S.Sudheesh Kumar, 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.P5 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.P5 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

