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. 5214 of 2015 (B)

PETITIONER(S):

L. SATHEEK,
AKKAVILA, 200, ERAVIPURAM P.O.,
KOLLAM - 690 011.

BY ADVS.SRI.MILLU DANDAPANI
SRI.PREMCHAND R.NAIR

RESPONDENT(S):
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1. THE COMMERCIAL TAX OFFICER,
WORKS CONTRACT, CIVIL STATION,
KOLLAM, PIN - 691 013.

2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
KOLLAM - 691 013.

3. THE DEPUTY TAHASILDAR (RR),
KOLLAM - 691 013.

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:

msv/

WP(C).No. 5196 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT. P1: TRUE COPY OF ORDER NO.32021632315/2010-11 DATED 2.5.2014 ISSUED BY THE 1ST RESPONDENT.

EXT.P2: TRUE COPY OF APPEAL DTD.26.9.2014.

EXT.P3: TRUE COPY OF ORDER NO.KVATA (KLM) 890/14 DTD.19.1.2015 PASSED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5214 OF 2015

Dated this the 19th 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.Milu Dandapani, the learned counsel for petitioner and Sri.S.Sudheesh Kumar, 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 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.P3 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

mns