IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 5982 of 2015 (W)

PETITIONER(S) :

NOUFAL.V.E, AGED 41 YEARS,
S/O.LATE IBRAHIMKUTTY, PROPRIETOR,
NOUFAL TRADING CO., NADAKKAL, ERATTUPETTA,
KOTTAYAM DISTRICT.

BY ADVS.SRI.SALIM V.S.
SRI.SHANAVAS.S
SRI.H.NUJUMUDEEN
SRI.P.V.JEEVESH

RESPONDENT(S) :

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1. **COMMERCIAL TAX OFFICER,**
   PALA, KOTTAYAM DISTRICT, PIN- 686 575.

2. **THE DEPUTY COMMISSIONER (APPEALS) -II,**
   COMMERCIAL TAXES, KOTTAYAM, PIN-686 001.

3. **DEPUTY TAHASILDAR (R.R),**
   REVENUE RECOVERY OFFICE, PALA, PIN-686 575.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 5982 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: **TRUE COPY OF THE DEMAND NOTICE DATED 05.10.2013 ISSUED BY THE 1ST RESPONDENT.**

EXHIBIT P2: **TRUE COPY OF THE ORDER DATED 07.10.2013 ISSUED BY THE 1ST RESPONDENT.**

EXHIBIT P3: **TRUE COPY OF THE APPEAL DATED 02.12.2013 AGAINST EXHIBIT P2 BEFORE THE 2ND RESPONDENT.**

EXHIBIT P4: **TRUE COPY OF THE APPEAL DATED 02.12.2013 AGAINST EXHIBIT P2 BEFORE THE 2ND RESPONDENT.**

EXHIBIT P5: **TRUE COPY OF THE COMMON ORDER DATED 05.03.2013 AGAINST PASSED BY THE 2ND RESPONDENT.**

EXHIBITP6: **TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 01.01.2015 ISSUED BY THE 3RD RESPONDENT IN RESPECT OF EXHIBIT P1.**

EXHIBIT P7: **TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 21.01.2015 ISSUED BY THE 3RD RESPONDENT IN RESPECT OF EXHIBIT P2.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.5982 of 2015

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Dated this the 6th day of March, 2015

J U D G M E N T

Against Ext.P1 demand notice and Ext.P2 assessment order, for the assessment year 2012-2013, the petitioner has preferred Exts.P3 and P4 appeals before the 2nd respondent. Along with the appeals, the petitioner had also preferred stay petitions. The 2nd respondent has now passed Ext.P5 order on the stay petitions directing the petitioner to pay 40% of the amount as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Ext.P1 and P2 orders.

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.V.S.Salim, the learned counsel for the petitioner andSmt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

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

mns