IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 6134 of 2015 (N)

PETITIONER(S)/PETITIONER:

M/S.POONAM GRIHANIRMAN (P) LTD,
MANIMADOM, AMBALAPPUZHA, A PRIVATE LIMITED COMPANY
REP BY SRI R. ANANTHA NARAYANAN, MANAGING DIRECTOR

BY ADVS.SRI.E.P.GOVINDAN
SMT.G.DEEPA

RESPONDENT(S)/RESPONDENTS:
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1. THE COMMERCIAL TAX OFFICER (W.C.)
COMMERCIAL TAXES, ALAPPUZHA-688001

2. THE DY.COMMISSIONER (A)-II,
COMMERCIAL TAXES, KOLLAM-691001

3. THE INSPECTING ASST COMMISSIONER
COMMERCIAL TAXES, ALAPPUZHA, 688001

4. THE STATE OF KERALA
REP BY THE SECRETARY, TAXES DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001

BY GOVERNMENT PLEADER SRI.SUDHESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 6134 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1:-	**TRUE COPY OF THE STAY ORDER DTD 31/1/2015 PASSED BY THE 2ND RESPONDENT APPELLATE AUTHORITY**
EXT P2:-	**TRUE COPY OF THE REVISED ASSESSMENT ORDER DTD 1/12/2014 PASSED BY THE FIRST RESPONDENT**
EXT P3:-	**TRUE COPY OF THE REVISED RETURN DTD 30/10/2009 FILED BEFORE THE RESPONDENT**
EXT P3(A):-	**TRUE COPY OF THE STATEMENT DTD 27/8/2014 FILED BEFORE THE FIRST RESPONDENT**
EXT P4:-	**TRUE COPY OF THE APPEAL MEMORANDUM DTD 15/12/2014 FILED BEFORE THE 2ND RESPONDENT**
EXT P5:-	**TRUE COPY OF THE STAY PETITION DTD 15/12/2014 FILED BEFORE THE 2ND RESPONDENT**
EXT P6:-	**TRUE COPY OF THE REVENUE RECOVERY NOTICE DTD 19/1/2015 ISSUED BY THE 3RD RESPONDENT**
EXT P7:-	**TRUE COPY OF THE REVISED ASSESSMENT ORDER DTD 18-12-2013 PASSED BY THE FIRST RESPONDENT**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

STK

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6134 OF 2015 (N)

Dated this the 26th day of February, 2015

J U D G M E N T

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003. Against Ext.P2 revised assessment order for the assessment year 2008-09, petitioner had preferred Ext.P4 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred Ext.P5 stay petition. The 2nd respondent has now passed Ext.P1 order 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 the assessment order.

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

3. I have heard Sri.Govindan.E.P., the learned counsel appearing for the petitioner as also Sri.Sudheesh Kumar, the learned Government Pleader appearing for the respondents.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with the following directions:-

(i) In Ext.P1 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.P1 order is quashed and the 2nd respondent is directed to reconsider the matter and pass fresh orders in the stay petitions filed by the petitioner, within one month from the date of receipt of a copy of this judgment after affording an opportunity of hearing to the petitioner.

(iii) Recovery steps, 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

prp