IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 6564 of 2015 (U)

PETITIONER :

M/S.M.V.R.EXPORTS (P) LTD. NO.24, GST ROAD, GUINDI
CHENNAI, REPRESENTED BY ITS DIRECTOR'S
POWER OF ATTORNEY HOLDER SRI.R.JAMES, AGED 46 YEARS

BY ADVS.SRI.S.SURESH BABU (CHERUNNIYOOR)
SRI.AJI V.DEV

RESPONDENTS :
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1. DEPUTY COMMISSIONER (APPEALS)
   COMMERCIAL TAXES, KOLLAM - 691 012.

2. THE ASST.COMMISSIONER
   COMMERCIAL TAXES, KOLLAM - 691 013.

3. TAHSILDAR
   REVENUE RECOVERY, KOLLAM - 691 013.

4. VILLAGE OFFICER,
   KILIKOLOOR, KOLLAM - 691 004.

R1 TO R4 BY SENIORGOVERNMENT PLEADER
SMT. SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 6564 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: A TRUE COPY OF THE RE-ASSESSMENT ORDER DATED 15/03/2014 UNDER KGST ACT FOR THE YEAR 93 -94.

EXT.P1(A): A TRUE COPY OF THE RE-ASSESSMENT ORDER DATED 15/03/2014 UNDER KGST ACT FOR THE YEAR 94-95.

EXT.P1(B): A TRUE COPY OF THE RE-ASSESSMENT ORDER DATED 15/03/2014 UNDER KGST ACT FOR THE YEAR 95 - 96.

EXT.P2: A TRUE COPY OF THE STATUTORY APPEAL FILED FOR THE YEAR 93 - 94 DATED 11/04/2014.

EXT.P2(A): A TRUE COPY OF THE STATUTORY APPEAL FILED FOR THE YEAR 94 - 95 DATED 11/04/2014.

EXT.P2(B): A TRUE COPY OF THE STATUTORY APPEAL FILED FOR THE YEAR 95 - 96 DATED 11/04/2014.

EXT.P3: A TRUE COPY OF THE PETITION FOR STAY FILED FOR THE YEAR 93 - 94 DATED 22/07/2015.

EXT.P3(A): A TRUE COPY OF THE PETITION FOR STAY FILED FOR THE YEAR 94 - 95 DATED 22/07/2014.

EXT.P3(B): A TRUE COPY OF THE PETITION FOR STAY FILED FOR THE YEAR 95 - 96 DATED 22/07/2014.

EXT.P4: A TRUE COPY OF THE PETITION FOR URGENT HEARING FILED FOR THE YEAR 93 - 94 DATED 19/02/2015.

EXT.P4(A): A TRUE COPY OF THE PETITION FOR URGENT HEARING FILED FOR THE YEAR 94 - 95 DATED 19/02/2015.

EXT.P4(B): A TRUE COPY OF THE PETITION FOR URGENT HEARING FILED FOR THE YEAR 95-96 DATED 19/02/2015.

EXT.P5: A TRUE COPY OF THE STAY ORDER PASSED BY THE 1ST RESPONDENT DATED 21/11/2014.

EXT.P6: A TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT IN FORM - 16 IN MALAYALAM DATED 28/01/2015.

EXT.P6(A): A TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT IN FORM - 16 IN ENGLISH DATED 28/01/2015.

EXT.P7: A TRUE COPY OF THE POSTING NOTICE FOR URGENT HEARING DATED 21/02/2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6564 OF 2015 (U)

Dated this the 9th day of March, 2015

J U D G M E N T

The petitioner is an assessee under the Kerala General Sales Tax Act, 1963. Against Ext.P1 series of assessment orders, petitioner had preferred Ext.P2 series of appeals before the 1st respondent. Along with the appeals, the petitioner had also preferred Ext.P3 series of stay petition. The 1st respondent has now passed Ext.P5 order directing the petitioner to pay 35% of the amount as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Ext.P1 series of assessment orders.

2. In the writ petition, the petitioner impugns the said conditional orders of stay, inter alia, on the ground that the 1st respondent had not exercised his discretion validly while passing the said order.

3. I have heard the learned counsel appearing for the petitioner as also 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.P5 order, the 1st 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 1st 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 1st respondent, as directed above, and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp