

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 6913 of 2015 (L)

PETITIONER :

**NORTHSHORE FOODS (P) LTD.,
THUMINADU, KUNJATHOOR P.O., MANJESHWAR,
KASARGOD - 671 323, REPRESENTED BY ITS DIRECTOR
SRI.FRANCIS J PALLAN.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMT.G.MINI
SRI.P.S.SREE PRASAD**

RESPONDENT(S):

- 1. DEPUTY COMMISSIONER,
COMMERCIAL TAXES, KASARGOD - 671 001.**
- 2. INTELLIGENCE OFFICER (IB),
OFFICE OF INSPECTING ASST. COMMISSIONER
(INTELLIGENCE), COMMERCIAL TAXES,
KASARGOD - 671 001.**

R1 & R2 BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- TRUE COPY OF THE AGREEMENT WITH THE DISTRIBUTOR DATED 25.8.2005
- P2- TRUE OCPY OF THE PENALTY ORDER DATED 15.12.2012
- P3- TRUE COPY OF THE APPEAL DATED 8.4.13
- P4- TRUE COPY OF THE APPLICATION DATED 6.7.13
- P5- TRUE COPY OF THE ORDER DATED 23.1.2015
- P6- COPY OF THE FREEZER DEPOSIT ACCOUNT FOR THE PERIOD 2005-06
- P6(A)- COPY OF THE FREEZER DEPOSIT ACCOUNT FOR THE PERIOD 2010-11
- P7- TRUE OCPY OF INVOICE EVIDENCING SALE OF SCRAP OF FREEZER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.6913 of 2015
.....

Dated this the 4th day of March, 2015

J U D G M E N T

Against Ext.P2 penalty order, the petitioner had preferred Ext.P3 appeal before the 1st respondent. Along with the appeal, the petitioner had also preferred Ext.P4 stay petition. The 1st respondent has now passed Ext.P5 order on the stay petition directing the petitioner to pay 30% amount as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Ext.P2 penalty order.

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

3. Heard Sri.A.Kumar, the learned counsel for petitioner and Sri.Sudheesh Kumar, 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 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 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 1st respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

