

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. 7131 OF 2015 (N)

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PETITIONER(S) :

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M/S.HINDUSTAN STEEL & CEMENT (BRANCH)  
WISE PARK ROAD, KANJIKODE, PALAKKAD DISTRICT  
REPRESENTED BY MUNEEER, MANAGING PARTNER

BY ADVS.SRI.HARISANKAR V. MENON  
SMT.MEERA V.MENON

RESPONDENT(S) :

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1. THE INTELLIGENCE OFFICER  
SQUAD NO.II, DEPARTMENT OF COMMERCIAL TAXES  
PALAKKAD-678 001

2. COMMISSIONER OF COMMERCIAL TAXES,  
TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM-695 005.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

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

WP(C) .NO. 7131 OF 2015 (N)

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APPENDIX

PETITIONER(S) ' EXHIBITS

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P1-COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED 24.09.2013.

P2-COPY OF ORDER IN R.P.NO.130/14 ISSUED BY THE DEPUTY COMMISSIONER,  
PALAKKAD DATED 30.10.2014

P3-COPY OF REVISION PETITION FILED BY THE PETITIONER BEFORE THE 2ND  
RESPONDENT DATED 15.11.2014.

P4-COPY OF STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND  
RESPONDENT DATED 15.11.2014.

P5-COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 13.02.2015.

RESPONDENT(S) ' EXHIBITS:NIL

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//TRUE COPY//

P.A TO JUDGE

**A.K.JAYASANKARAN NAMBIAR, J.**

.....  
W.P.(C).No.7131 of 2015

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Dated this the 6<sup>th</sup> day of March, 2015

**J U D G M E N T**

Against Ext.P2 appellate order, petitioner preferred Ext.P3 revision before the 2<sup>nd</sup> respondent. Along with the revision, the petitioner had also preferred Ext.P4 stay petition. The 2<sup>nd</sup> respondent has now passed Ext.P5 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.P2 appellate order.

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

3. Heard Sri.Harisankar V.Menon, the learned counsel for the petitioner and Smt.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 2<sup>nd</sup> 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.Ext.P5 order is quashed and the 2<sup>nd</sup> 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 2<sup>nd</sup> respondent as directed above and communicated to the petitioner.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

