

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.7193 of 2015 (Y)

PETITIONER:

**NORTHSHORE FOOD (P) LTD.,THUMINADU,
KUNJATHOOR.P.O.,MANJESHWAR,
KASARGOD-671323,REPRESENTED BY ITS
DIRECTOR SRI.FRANCIS J PALLAN.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD**

RESPONDENTS:

- 1. DEPUTY COMMISSIONER,COMMERCIAL TAXES,
KASARGOD,KASARGOD-671001.**
- 2. INTELLIGENCE OFFICER (IB),
OFFICE OF THE INSPECTING ASST. COMMISSIONER
(INTELLIGENCE),COMMERCIAL TAXES,
KASARGOD-671001.**

BY GOVT. 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:**

pk

WP(C).No.7193 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1:TRUE COPY OF THE AGREEMENT WITH THE DISTRIBUTOR
DATED 25-8-2005.**

EXT.P2:TRUE COPY OF THE PENALTY ORDER DATED 15-3-2013 FOR 2009-10.

EXT.P2(a):TRUE COPY OF THE PENALTY ORDER DATED 15-3-2013 FOR 2011-12.

EXT.P3:TRUE COPY OF THE REVISION PEEITION DATED 25-4-2013 FOR 2009-10.

**EXT.P3(a):TRUE COPY OF THE REVISION PETITION DATED 25-4-2013
FOR 2011-12.**

EXT.P4:TRUE COPY OF THE STAY APPLICATION DATED 25-4-2013 FOR 2009-10.

**EXT.P4(a):TRUE COPY OF THE STAY APPLICATION DATED 25-4-2013
FOR 2011-12.**

EXT.P5:A TRUE COPY OF THE ORDER DATED 23-1-2015 FOR 2009-10.

EXT.P6:A TRUE COPY OF THE ORDER DATED 23-1-2015 FOR 2011-12.

EXT.P7:COPY OF THE FREEZER DEPOSIT ACCOUNT FOR THE PERIOD 2005-06.

**EXT.P7(a):COPY OF THE FREEZER DEPOSIT ACCOUNT FOR THE
PERIOD 2010-11.**

EXT.P8:TRUE COPY OF INVOICE EVIDENCING SALE OF SCRAP OF FREEZER.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.7193 of 2015
.....

Dated this the 6th day of March, 2015

J U D G M E N T

Against Exts.P2 and P2(a) penalty orders, petitioner preferred Exts.P3 and P3(a) revision petitions before the 1st respondent. Along with the revisions, the petitioner had also preferred Exts.P4 and P4(a) stay petitions. The 1st respondent has now passed Exts.P5 and P6 order on the stay petition directing the petitioner to pay 30% of amount as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Exts.P2 and P2(a) penalty orders.

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 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 Exts.P5 and P6 orders, 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) Exts.P5 and P6 orders are 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

