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. 7322 of 2015 (M)

PETITIONER:

M/S.HOTEL POORAM INTERNATIONAL,
KURUPPAM ROAD, THRISSUR,
REPRESENTED BY ITS MANAGING PARTNER
E.P.K. BALAKRISHNAN.

BY ADV. SRI.K.A.SREEJITH

RESPONDENT(S):
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1. **ASSISTANT COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, THRISSUR-680 003.

2. **COMMERCIAL TAX OFFICER,**
   3RD CIRCLE, THRISSUR-680 003.

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

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

mbr/

WP(C).No. 7322 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: **THE TRUE COPY OF THE COMMON ORDER PASSED BY IST RESPONDENT IN KVATA NOS.599, 600, 601, 602 AND 603 OF 2014.**

EXHIBIT P2: **THE TRUE COPY OF ORDER PASSED IN EXTENSION PETITION.**

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7322 OF 2015 (M)

Dated this the 9th day of March, 2015

J U D G M E N T

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003. Against the assessment orders, petitioner had preferred appeals before the 1st respondent. Along with the appeals, the petitioner had also preferred stay petitions. The 1st 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 orders. Thereafter, the petitioner filed an extension petition to extend the period for making payment and the 1st respondent vide Ext.P2 order granted him 15 days to effect payment.

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. 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.P1 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.
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> (ii) Ext.P1 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.
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> (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