IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 7477 of 2015 (H)

PETITIONER(S):

M/S. HALL MARK MARKETING, 64/2566,
VALAVI ROAD, NEAR TOWN NORTH POLICE STATION,
ERNAKULAM - 682 018, REPRESENTED BY ITS
PROPRIETOR MR.MUHAMMED SHAJI N.H.

BY ADV. SMT.K.LATHA.

RESPONDENT(S):
----

1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2. THE ASSISTANT COMMISSIONER (ASSMT),
SPECIAL CIRCLE-I, COMMERCIAL TAXES,
ERNAKULAM-682 032.

3. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM-682 032.

4. INSPECTING ASSISTANT COMMISSIONER,
(REVENUE RECOVERY OFFICER),
COMMERCIAL TAXES, KAKKANAD,
ERNAKULAM -682 030.

BY GOVT. PLEADER SMT.SHOBA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rs.

WP(C).No. 7477 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT-P1- TRUE COPY OF THE ASSESSMENT ORDER NO. 32071563112/2010-11 DATED 06/12/2014 FOR THE YEAR 2010-11.

EXHIBIT-P2- TRUE COPY OF THE FORM NO. 29 AND THE GROUNDS OF APPEAL FILED BY THE PETITIONER AGAINST THE P.1 ASSESSMENT ORDER.

EXHIBIT-P3- TRUE COPY OF THE STAY ORDER NO. KVATA 401 A/2015 DATED 19/02/2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXHIBIT-P4- TRUE COPY OF THE DEMAND NOTICE FOR THE ASSESSMENT YEAR 2010-11 DATED 27/01/2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.7477 of 2015

....

Dated this the 10th day of March, 2015

J U D G M E N T

Against Ext.P1 assessment order, the petitioner preferred Ext.P2 appeal before the 3rd respondent. Along with the appeal, the petitioner had also preferred stay petition. The 3rd respondent has now passed Ext.P3 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.P1 assessment order.

2. In the writ petition, the petitioner impugns the said conditional order of stay, inter alia, on the ground that the 3rd respondent had not exercised his discretion validly while passing the said order.

3. Heard Smt.Latha.K, 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 Ext.P3 order, the 3rd 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.P3 order is quashed and the 3rd 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 3rd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns