IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 7661 of 2015 (G)

PETITIONER:

M/S.GLADES ENGINEERING AND CONTRACTING PVT. LTD,
FIRST FLOOR, VAVAS BUILDING, THIRURKKAD,
MALAPPURAM, REPRESENTED BY C.P.SHAMSUDHEEN,
MANAGING DIRECTOR.

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

RESPONDENTS:
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1. **COMMERCIAL TAX OFFICER (WC & LT),**
   DEPARTMENT OF COMMERCIAL TAXES,
   MALAPPURAM-676 505.

2. **INTELLIGENCE OFFICER (IB)-II,**
   DEPARTMENT OF COMMERCIAL TAXES,
   KOZHIKODE-673 001.

3. **THE COMMISSIONER OF COMMERCIAL TAXES,**
   TAX TOWERS, KILLIPPALAM, THIRUVANANTHAPURAM-695 001.

4. **INSPECTING ASST. COMMISSIONER,**
   DEPARTMENT OF COMMERCIAL TAXES,
   MALAPPURAM-676 505.

BY GOVT. PLEADER SMT.SHOBA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 7661 of 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DATED 30/11/2013.

EXT.P2 COPY OF ORDER ISSUED BY THE DEPUTY COMMISSIONER, MALAPPURAM DATED 30/08/2014.

EXT.P3 COPY OF REVISION PETITION FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 20/09/2014.

EXT.P4 COPY OF STAY PETITION FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 20/09/2014.

EXT.P5 COPY OF ORDER ISSUED BY THE 3RD RESPONDENT DATED 12/02/2015.

EXT.P6 COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED 22/09/2014.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.7661 of 2015 (G)

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Dated this the 11th day of March, 2015

JUDGMENT

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003. Against Ext.P1 penalty order, the petitioner has preferred Ext.P3 revision petition before the 3rd respondent. Along with the revision petition, the petitioner also preferred Ext.P4 stay petition. The 3rd respondent has now passed Ext.P5 interim 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 penalty order.

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

3. Heard Sri.Harisankar V. Menon, the learned counsel appearing for petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader appearing for respondents.

4. 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 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 vs. Commecial 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 3rd respondent is directed to reconsider the matter and pass fresh orders in the stay petition 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.

(iii) Recovery steps, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/12/03/

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