IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 7869 of 2015 (G)

PETITIONER(S):

P.M. MANAF,
PROPRIETOR, PUTHUKKATTU WOOD PRODUCTS, RAYAMANGALAM
PERUMBAVOOR.

BY ADV. SRI.AJI V.DEV

RESPONDENT(S):
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1. **ASSISTANT COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, ERNAKULAM-682015.

2. **THE COMMERCIAL TAX OFFICER,**
   SECOND CIRCLE, PERUMBAVOOR-683 542.

3. **THE INSPECTING ASSISTANT COMMISSIONER,**
   COMMERCIAL TAXES, MUVATTUPUZHA-686 661.

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 7869 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1 : A TRUE COPY OF THE ASSESSMENT ORDER PASSED FOR THE YEAR 2012-13 DT 18.10.2014.

EXT P1(A) : A TRUE COPY OF THE ASSESSMENT ORDER PASSED FOR THE YEAR 2013-14 DT 20.10.2014.

EXT P2 : LIST OF "C" FORMS NOW AVAILABLE WITH THE PETITIONER FOR THE YEAR 2012-13.

EXT P2 (A): LIST OF "C" FORMS NOW AVAILABLE WITH THE PETITIONER FOR THE YEAR 2013-14.

EXT P3 : TRUE COPIES OF "C" FORMS NOW IN POSSESSION OF THE PETITIONER FOR THE YEAR 2012-13.

EXT P4 : TRUE COPIES OF "C" FORMS NOW IN POSSESSION OF THE PETITIONER FOR THE YEAR 2013-14.

EXT P5 : TRUE COPIES OF STATUTORY APPEAL AND STAY PETITION FILED FOR THE YEAR 2012-13.

EXT P5 (A) : TRUE COPIES OF STATUTORY APPEAL AND STAY PETITION FILED FOR THE YEAR 2013-14.

EXT P6 : TRUE COPY OF THE STAY ORDER PASSED BY THE 1ST RESPONDENT FOR THE YEAR 2012-13 DT 11.02.2015

EXT P6 (A): TRUE COPY OF THE STAY ORDER PASSED BY THE 1ST RESPONDENT FOR THE YEAR 2013-14 DT 11.02.2015.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7869 OF 2015 ( )

Dated this the 12th day of March, 2015

J U D G M E N T

The petitioner is an assessee under the Central Sales Tax Act, 1963. Against Exts.P1 and P1(a) assessment orders for the assessment years 2012-13 and 2013-14, the petitioner had preferred Exts.P5 and P5(a) appeals along with stay petitions before the 1st respondent. The 1st respondent has now passed Exts.P6 and P6(a) orders 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 Exts.P1 and P1(a) assessment orders.

2. In the writ petition, the petitioner impugns the said conditional orders 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 Exts.P6 and P6(a) 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.P6 and P6(a) orders are quashed and the 1st respondent is directed to reconsider the matter and pass fresh orders in the stay petitions filed by the petitioner, within two months 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 1st respondent, as directed above, and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp