IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No.8459 of 2015 (F)

PETITIONER:

M/S.BLAZE FASHIONS,BANK ROAD,
KANNUR,REPRESENTED BY ITS PROPRIETOR,
SRI.MUHAMMAD RUVAIS.

BY ADV. SRI.RAJESH NAMBIAR

RESPONDENTS:
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1. **COMMERCIAL TAX OFFICER,II CIRCLE,**
   COMMERCIAL TAXES,KANNUR,PIN-670001.

2. **DEPUTY COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES,KOZHIKODE,PIN-673731/

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.8459 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE ASSESSMENT ORDER FOR THE PERIOD APRIL 2014 DATED 4.9.2014.

EXT.P2:TRUE COPY OF THE ASSESSMENT ORDER FOR THE PERIOD MAY 2014 DATED 4.9.2014.

EXT.P3:TRUE COPY OF THE ASSESSMENT ORDER FOR THE PERIOD JUNE 2014 DATED 20.10.2014.

EXT.P4:TRUE COPY OF THE ASSESSMENT ORDER FOR THE PERIOD JULY 2014 DATED 20.10.2014.

EXT.P5:TRUE COPY OF THE APPEAL DATED 9.12.2014 FILED AS AGAINST EXT.P1 ORDER.

EXT.P6:TRUE COPY OF THE APPEAL DATED 9.12.2014 FILED AS AGAINST EXT.P2 ORDER.

EXT.P7:TRUE COPY OF THE APPEAL DATED 9.12.2014 FILED AS AGAINST EXT.P3 ORDER.

EXT.P8:TRUE COPY OF THE APPEAL DATED 9.12.2014 FILED AS AGAINST EXT.P4 ORDER.

EXT.P9:TRUE COPY OF THE STAY PETITION FILED IN EXT, IN EXT.P5 APPEAL.

EXT.10:TRUE COPY OF THE STAY PETITION FILED IN EXT IN EXT.P6 APPEAL.

EXT.P11:TRUE COPY OF THE STAY PETITION FILED IN EXT. IN EXT.P7 APPEAL.

EXT.P12:TRUE COPY OF THE STAY PETITION FILED IN EXT. IN EXT.P8 APPEAL.

EXT.P13:TRUE COPY OF THE COMMON ORDER DATED 25.2.2015 IN EXT.P9 AND P10 STAY PETITIONS.

EXT.P14:TRUE COPY OF THE COMMON ORDER DATED 25.2.2015 IN EXT.P11 AND P12 STAY PETITIONS.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

pk P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.8459 of 2015

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Dated this the 18th day of March, 2015

<u>J U D G M E N T</u>

Against Exts.P1 to P4 assessment orders, petitioner preferred Exts.P5 to P8 appeals before the 2nd respondent. Along with the appeals, the petitioner had also preferred Exts.P9 to P12 stay petitions. The 2nd respondent has now passed Exts.P13 and P14 orders on the stay petitions directing the petitioner to pay 40% of the amount as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Exts.P1 to P4 assessment orders.

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

3. I have heard the learned counsel for the petitioner and 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.P13 and P14 orders, the 2nd 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.P13 and P14 orders are quashed and the 2nd 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 2nd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns