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. 8460 of 2015 (F)

PETITIONER(S) :

RAJESH NARAYANAN NAIR, AGED 41 YEARS,
THUNDIL VEEDU, KALANJOOR.P.O.,
PATHANAMTHITTA-689 694. (STARK BUILDERS, ADOOR).

BY ADV. SRI.G.VIJAYAN UNNITHAN.

RESPONDENT(S) :
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1. INTELLIGENCE OFFICER (INVESTIGATION BRANCH),
   COMMERCIAL TAXES, KOLLAM, PIN-691 001.

2. COMMERCIAL TAX OFFICER (WORKS CONTRACT),
   COMMERCIAL TAXES, PATHANAMTHITTA-689 645.

3. DEPUTY COMMISSIONER,
   COMMERCIAL TAXES, KOLLAM, PIN-691 001.

4. DEPUTY TAHSILDAR (RR),
   PATHANAMTHITTA-689 645.

BY GOVERNMENT 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:

Msd.

WP(C).No. 8460 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: TRUE COPY OF THE PENALTY ORDER NO.CR.131/13-14 DATED 18-06-2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

P2: TRUE COPY OF THE REVISION PETITION DATED 09-02-2015 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

P3: TRUE COPY OF THE URGENT PETITION DATED 09-02-2015 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

P4: TRUE COPY OF THE STAY ORDER NO.RP.22/12 DATED 13-02-2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

P5: TRUE COPY OF THE AGREEMENT MUTUALLY AGREED UPON BY THE AWARDER AND THE PETITIONER DATED 15-03-2013.

P6: TRUE COPY OF THE PERMISSION TO PAY TAX UNDER COMPOUNDING SCHEME NO.32030729392 DATED 22-04-2013 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

P7: TRUE COPY OF THE STATEMENT FURNISHED BY THE AWARDER NO.32170063149 DATED 08-02-2014 BEFORE THE 2ND RESPONDENT.

P8: TRUE COPY OF THE QUARTERLY RETURN FOR THE PERIOD FROM 01-01-2014 TO 31-03-2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

P9: TRUE COPY OF THE REVENUE RECOVERY NOTICE NO.(B2)2014/1631/3/200 DATED 17-12-2014 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.8460 of 2015

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Dated this the 18th day of March, 2015

J U D G M E N T

Against Ext.P1 penalty order, petitioner preferred Ext.P2 revision before the 3rd respondent. Along with the revision, the petitioner had also preferred stay petition. The 3rd respondent has now passed Ext.P4 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. I have heard the learned counsel for the petitioner and also 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.P4 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.P4 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