

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. 8472 of 2015 (H)

PETITIONER :

**M/S.HOTEL SURYA,
BAR ATTACHED, IRRITY, KANNUR,
REPRESENTED BY ITS MANAGING PARTNER,
K.T. MATHEW.**

BY ADV. SRI.RAJESH NAMBIAR

RESPONDENT(S):

- 1. ASST.COMMISSIONER (KVAT),
COMMERCIAL TAXES, SPECIAL CIRCLE,
KANNUR,PIN-670 001**
- 2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOZHIKODE, PIN-670 832.**

R1 & R2 BY SR 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:**

sts

WP(C).NO.8472/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ASSESSMENT ORDER DATED 31/07/14 FOR THE YEAR 2010-11 UNDER THE KGST ACT.**
- P2 COPY OF THE APPEAL FILED AGAINST EXT.P1 ASSESSMENT ORDER.**
- P3 COPY OF THE STAY PETITION FILED IN EXT.P2 APPEAL**
- P4 COPY OF THE ORDER DATED 25/02/2015 IN EXT.P3 STAY PETITION.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.8472 of 2015

.....
Dated this the 18th day of March, 2015

J U D G M E N T

Against Ext.P1 assessment order, petitioner preferred Ext.P2 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred Ext.P3 stay petition. The 2nd 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 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 Ext.P4 order, 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) Ext.P4 order is 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

