IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 8711 of 2015 (L)
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PETITIONER(S):
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1. **LAKSHADWEEP PUBLIC WORKS DEPARTMENT AGED 54 YEARS
REPRESENTED Y TEH SUPERINTENDING ENGINEER,
LPWD UT OF LAKSHADWEEP, KAVARATTI**

2. **THE ASSISTANT ENGINEER
LAKSHADWEEP PWD, SUB DIVISIONAL BEYPORE, KERALA**

BY ADV. SRI.S.RADHAKRISHNAN,SC,LAKSHADWEEP ADMN

RESPONDENT(S):
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1. **COMMISSIONER OF SALES TAX
STATE OF KERALA, THIRUVANNATHAPURAM 695101**

2. **THE DEPUTY COMMISSIONER (APPEALS)
KOZHIKODE 673006**

3. **THE COMMERCIAL TAX OFFICER,
IVTH CIRCLE, KOZHIKODE 673020**

BY GOVERNMENT PLEADER SMT. SOBHA ANNAMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

MJS

WP(C).No. 8711 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:A	**TRUE COPY OF THE COMMON ORDER NO. SP 134/2015 IN VAT APPEALS 301/2015 302/2015 AND 303/2015 DATED 25.02.2015**
P2:A	**TRUE COPY OF THE LETTER DATED 11.06.2014**
P3:A	**TRUE COPY OF THE LETTER F.NO.2/16/2014-AB2/760 DATED 21.07.2004 ISSUED BY THE FIRST PETITIONER TO BARRIA EXPORTS, RAMALLORE, KOZHIKODE**
P4:A	**TRUE COPY OF ORIGINAL TAX INCOME NO. WB 361408298980079**
P5:A	**TRUE COPY OF THE LETTER NO. P4-108/15 DATED 09.02.2015 ISSUED BY THE SENIOR PORT OFFICER, BEYPORE TO THE 3RD RESPONDENT CERTIFYING THE ABOVE SAID FACTS**
P6:A	**TRUE COPY OF THE NOTICE NO. A 3997/2014 DATED 19.09.2014 ISSUED BY THE 3RD RESPONDENT**
P7:A	**TRUE COPY OF THE REPLY F.NO. 1/4/CEMENT/2012/AE(SDK)/309 DATED 30.09.2014**
P8:A	**TRUE COPY OF THE ORDER NO. 3997/2014 DATED 17.12.2014**
P9:A	**TRUE COPY OF THE VAT APPEL NO. 301 OF 2015**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.8711 of 2015 (L)

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Dated this the 19th day of March, 2015

JUDGMENT

The petitioners are assessees under the Kerala Value Added Tax Act, 2003. Against Ext.P8 assessment order, the petitioners have preferred Ext.P9 appeal before the 2nd respondent. The petitioner is aggrieved by Ext.P1 interim order of stay passed in 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 petitioners for the year 2014 - 2015.

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

3. Heard Sri.S.Radhakrishnan, the learned counsel appearing for petitioners 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.P1 order, the 2nd respondent does not state reasons as to why the petitioners were 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.P1 order is quashed and the 2nd respondent is directed to reconsider the matter and pass fresh orders in the stay petition filed by the petitioners, within one month from the date of receipt of a copy of this judgment after affording an opportunity of hearing to the petitioners.

(iii) Recovery steps, if any, initiated against the petitioners shall be kept in abeyance till such time, as fresh orders are passed by the 2nd respondent, as directed above, and communicated to the petitioners.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/20/03/