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. 8830 of 2015 (C)

PETITIONER:

MARYKUTTY R. AROUGE, AGED 51 YEARS,
W/O. RAJAN AROUGE, ARASARKADAVIL H.O.,
AVALOOKUNNU P.O., ALAPPUZHA.

BY ADVS.SMT.A.A.SHIBI
SMT.KEERTHI SOLOMON

RESPONDENT(S):
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1. **AGRICULTRUAL INCOME TAX &**
   COMMERCIAL TAX OFFICER,
   ALAPPUZHA-688 001.

2. **DEPUTY COMMISSIONER OF INCOME TAX**
   (APPEALS), KOLLAM-691 001.

3. **THE DISTRICT COLLECTOR,**
   ALAPPUZHA-688 001.

4. **SIBI GEORGE, S/O. GEORGE, AGED 52 YEARS,**
   THOTTUNAKAL, SOUTH ARYAD,
   AVALOORKUNNU P.O., ALAPPUZHA-688 006.

5. **ROYMON JOSEPH, S/O. JOSEPH, AGED 40 YEARS,**
   KAREEPURATH MUHAMMA, PIN-688 012.

R1 TO R3 BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

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

mbr/

WP(C).No. 8830 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS:

P1 : TRUE COPY OF THE LEASE DEED DATED 26.1.2012.

P2 : TRUE COPY OF THE ITR FORM SUBMITTED BY THE PETITIONER.

P3 : TRUE COPY OF THE ITR FORM SUBMITTED BY THE PETITIONER.

P4 : TRUE COPY OF THE ASSESSMENT ORDER NO.A1-451/2012-13 DATED 10.9.2014.

P5 : TRUE COPY OF THE RECEIPT NO.0601-740-017 DATED 1.10.2013.

P6 : TRUE COPY OF THE ORDER WITH REGARD TO THE COMPOUNDING OF OFFENCE AS NOCR12/12 -13 DATED 19.9.2013.

P7 : TRUE COPY OF THE APPEAL BEFORE THE 2ND RESPONDENT DATED 15.12.2014.

P8 : TRUE COPY OF THE INTERIM ORDER NO.KVTA(ALPY)653/14 DATED 25.2.2015.

P9 : TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE COLLECTOR, ALAPPUZHA, DATED 15.1.2015.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).No.8830 of 2015

Dated this the 19th day of March, 2015

J U D G M E N T

Against Ext.P4 assessment order, petitioner preferred Ext.P7 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred stay petition. The 2nd respondent has now passed Ext.P8 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.P4 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.P8 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 **<u>Archana Agencies v Commercial Tax Officer - 2014 (2) KLT 715</u>** that an authority considering a stay petition is bound to give reasons even while granting conditional stay.

(ii) Ext.P8 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

mns