IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 9190 of 2015 (W)

PETITIONER(S):

JILJO MATHEW, PROPRIETOR,
HEART LAND BOOK COLLECTIONS,
RAJAKKAD, IDUKKI DISTRICT.

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR

RESPONDENT(S):

1. COMMERCIAL TAX OFFICER,
ADIMALI, IDUKKI DISTRICT.

2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, PUBLIC LIBRARY BUILDINGS,
KOTTAYAM-686001.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 9190 of 2015 (W)

APPENDIX

PETITIONERS' EXHIBITS

P1: COPY OF ORDER DATED 5/11/13 ISSUED BY THE R1 FOR THE YEAR 2009-10

P1(A): COPY OF ORDER DATED 7/11/13 ISSUED BY THE R1 FOR THE YEAR 2010-11

P2: COPY OF APPEAL MEMORANDUM AGAINST EXT.P1

P2(A): COPY OF APPEAL MEMORANDUM AGAINST EXT.P1(A)

P3: COPY OF STAY PETITION FILED IN EXT.P2 APPEAL

P3(A): COPY OF STAY PETITION FILED IN EXT.P2(A) APPEAL

P4: COPY OF STAY ORDER DATED 12/2/15 ISSUED BY THE R2

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 9190 of 2015

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Dated this the 23rd day of March, 2015

JUDGMENT

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003. Against Exts.P1 and P1(a) assessment orders, the petitioner had preferred Exts.P2 and P2(a) appeals before the 2nd respondent. Along with the appeals, the petitioner had also preferred Exts.P3 and P3(a) stay petitions. The 2nd respondent has now passed Ext.P4 order 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 the assessment order.

2. In the writ petition, the petitioner impugns the said conditional orders 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 appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

4. On a consideration of the facts and circumstances of the case and the 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 petitions filed by the petitioner, within one month from the date of receipt of a copy of this judgment after affording an opportunity of hearing to the petitioner.

(iii) Recovery steps, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das