

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No. 9902 of 2015 (K)

PETITIONER :

**M/S. DEN NETWORKS LTD.,
DR. KOSHY'S ARCADE, 2ND FLOOR,
PLOT NO.153/8, A2, OPP. OBERON MALL,
BYPASS ROAD, EDAPPALLY, KOCHI-24,
REPRESENTED BY JAIFER.V.K., GENERAL MANAGER-OPERATIONS.**

**BY ADV. SRI.HARISANKAR V. MENON
SMT. MEERA V. MENON**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
2ND CIRCLE, KALAMASSERY AT CIVIL STATION,
KAKKANADU, KOCHI-30**
- 2. THE ASST. COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
SALES TAX COMPLEX, THEVARA, ERNAKULAM-15.**
- 3. INSPECTING ASST. COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
KAKKANADU, KOCHI-30.**

R1 TO R3 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.9902/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DATED 28/11/2014.**
- P2 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 12/12/2014.**
- P3 COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 12/12/2014.**
- P4 COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 07/03/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 9902 of 2015 ()

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Dated this the 27th day of March, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P4 conditional order of stay passed by the 2nd respondent in a stay petition filed along with an appeal against Ext.P1 assessment order. In the writ petition, the challenge against Ext.P4 order is essentially that the 2nd respondent while passing the said order did not exercise his discretion validly.

2. I have heard Sri.Harisankar V.Menon, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I find that, in Ext.P4, the 2nd respondent had given reasons for arriving at a finding that the petitioner had only succeeded in establishing a prima facie case that warranted a conditional order of stay. It is thereafter, that the 2nd respondent found that the petitioner would be required to pay 30% of the outstanding demand and furnishing security for the balance amount as a condition for grant of stay of recovery of the balance amount. Inasmuch as, I do not find any jurisdictional error or any illegality in the

exercise of discretion by the 2nd respondent while passing Ext.P4 order, I am not inclined to interfere with the said order in this proceedings under Article 226 of the Constitution of India. Accordingly, the writ petition in its challenge against Ext.P4 order fails and it is dismissed.

The learned counsel for the petitioner submits that, the petitioner would require sometime to comply with the directions in Ext.P4 order. Taking note of the said submission, I grant the petitioner time till 31.03.2015 for complying with the directions in Ext.P4 order. Save for this limited modification with regard to the time for complying with the order, the writ petition in its challenge against the said order, is otherwise dismissed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/28/03/