

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 10092 of 2015 (J)

PETITIONER :

**V.A. VINU,
PROPRIETOR,V.M.PLY BOARDS, CHELAMATTOM,
OKKAL P.O., PERUMBAVOOR.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER-1,
1ST CIRCLE, PERUMBAVOOR - 683 542.**
- 2. THE ASSISTANT COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM - 682 015.**

BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2005-06 (KVAT) DATED 14/8/2014.
- P2: TRUE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2009-10 (CST) DATED 30/9/2014.
- P3: TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2005-06 (KVAT) DATED 17/11/2014.
- P4: TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2009-10 (CST) DATED 17/11/2014.
- P5: TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2005-06(KVAT) DATED 17/11/2014.
- P6: TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2009-10 (CST) DATED 17/11/2014.
- P7: TRUE COPY FO THE INTERIM ORDER PASSED BY 2ND RESPONDENT FOR THE YEAR 2005-06 (KVAT) DATED 21/02/2015.
- P8: TRUE COPY OF THE INTERIM ORDER PASSED BY 2ND RESPONDENT FOR THE YEAR 2009-10 (CST) DATED 21/02/2015.
- P9: TRUE COPY OF THE DEMAND NOTICE IN FORM NO.12 ISSUED BY 1ST RESPONDENT FOR THE YEAR 2005-06 (KVAT) DATED 14/8/2014.
- P10: TRUE COPY OF THE DEMAND NOTICE IN FORM NO.IV ISSUED BY 1ST RESPONDENT FOR THE YEAR 2009-10 (CST) DATED 30/09/2014.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.10092 OF 2015 (J)

Dated this the 30th day of March, 2015

J U D G M E N T

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003 and the Central Sales Tax Act on the files of the 1st respondent. Against Exts.P1 and P2 assessment orders, the petitioner had preferred Exts.P3 and P4 appeals and Ext.P5 and P6 stay petitions before the 2nd respondent. The 2nd respondent has now passed Exts.P7 and P8 orders on the stay petitions, 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 Exts.P1 and P2 assessment orders.

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 orders.

3. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

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 Exts.P7 and P8 orders, 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) Exts.P7 and P8 orders are quashed and the 2nd respondent is directed to reconsider the matter and pass fresh orders in the stay petitions filed by the petitioner, within two months 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp