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. 10107 of 2015 (K)

PETITIONER(S):

M/S.NATIONAL PAINTS FACTORIES (INDIA) PVT. LTD.,
38/2392 C, SALIM CHAMBERS,
SALIM RAJAN ROAD, KOCHI-17,
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADVS.SRI.ANIL D. NAIR,
SMT.C.S.SULEKHA BEEVI,
SRI.R.SREEJITH,
SMT.ROSIE ATHULYA JOSEPH.

RESPONDENT(S):

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1. THE ASSISTANT COMMISSIONER (ASSESSMENT),
   SPECIAL CIRCLE-3, ERNAKULAM-682 015.

2. DEPUTY COMMISSIONER (APPEALS)-II,
   ERNAKULAM-682 015.

3. STATE OF KERALA,
   REPRESENTED BY SECRETARY TO TAXES,
   THIRUVANANTHAPURAM-695 001.

BY GOVT. 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:

rs.

WP(C).No. 10107 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	**COPY OF THE ASSESSMENT ORDER DATED 28/12/2014 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.**
EXT.P2	**COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**
EXT.P3	**COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**
EXT.P4	**COPY OF THE STAY ORDER DATED 23/03/2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 10107 of 2015

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Dated this the 27th day of March, 2015

JUDGMENT

The petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003. Against Ext.P1 assessment order for the assessment year 2012-2013, the petitioner had preferred Ext.P2 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred Ext.P3 stay petition. The 2nd respondent has now passed Ext.P4 order 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 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