IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 10908 of 2015 (K)

PETITIONER(S):

M/S.DAS BUILDERS, NELLIKODE,
N.H. BYE PASS, KOZHIKODE,
REP. BY MANAGING PARTNER
SHAM SUDHEER DAS.

BY ADVS.SRI.P.RAGHUNATH,
SRI.PREMJIT NAGENDRAN,
SMT.M.SHYLAJA.

RESPONDENT(S):
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1. COMMERCIAL TAX OFFICER (WC),
OFFICE OF THE DY. COMMISSIONER OF
COMMERCIAL TAXES, KOZHIKODE.

2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOZHIKODE.

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rs.

WP(C).No. 10908 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 COPY OF THE ASSESSMENT ORDER FOR 2009-2010 DATED 20/06/2014.

EXT.P2 COPY OF THE APPEAL FILED AGAINST EXT.P1 ORDER.

EXT.P3 COPY OF THE STAY PETITION FILED ALONG WITH EXT.P2 APPEAL.

EXT.P4 COPY OF THE ORDER PASSED ON EXT.P3 STAY PETITION DATED 31/01/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 10908 of 2015
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Dated this the 6th day of April, 2015

JUDGMENT

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003. Against Ext.P1 assessment order, 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