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. 11015 of 2015 (B)

PETITIONER(S) :

JAISON.J.MANJALY,
CONTRACTOR, MANJALY HOUSE,
P.O.ALAGAPPANAGAR, THRISSUR- 680 302.

BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN

RESPONDENT(S) :
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1. THE INTELLIGENCE OFFICER (IB),
DEPARTMENT OF COMMERCIAL TAXES, THRISSUR- 680 001.

2. THE DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, AYYANTHOLE,
THRISSUR- 680 007.

3. THE INSPECTING ASSISTANT COMMISSIONER,
OFFICE OF THE INSPECTING ASSISTANT COMMISSIONER,
THRISSUR- 680 007.

4. THE VILLAGE OFFICER,
AMBALLUR, THRISSUR DISTRCT- 680 007.

5. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
TALUK OFFICE, MUKUNDAPURAM, THRISSUR- 680 001.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

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

Msd.

WP(C).No. 11015 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1:	TRUE COPY OF THE PENALTY ORDER DATED 04.12.2014 FOR THE YEAR 2006-07 ALONG WITH DEMAND NOTICE ISSUED BY THE FIRST RESPONDENT.
EXT.P1(A):	TRUE COPY OF THE PENALTY ORDER DATED 04.12.2014 FOR THE YEAR 2007-08 ALONG WITH DEMAND NOTICE ISSUED BY THE FIRST RESPONDENT.
EXT.P2:	TRUE COPY OF THE REVISION PETITION DATED 12.02.2015 FOR THE YEAR 2006-07 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.
EXT.P2(A):	TRUE COPY OF THE REVISION PETITION DATED 12.02.2015 FOR THE YEAR 2007-08 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.
EXT.P3:	TRUE COPY OF THE STAY PETITION DATED 19.03.2015 FOR THE YEAR 2006-07 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.
EXT.P3(A):	TRUE COPY OF THE STAY PETITION DATED 19.03.2015 FOR THE YEAR 2007-08 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.
EXT.P4:	TRUE COPY OF THE STAY ORDER DATED 21.03.2015 FOR THE YEAR 2006-07 PASSED BY THE 2ND RESPONDENT.,
EXT.P4(A):	TRUE COPY OF THE STAY ORDER DATED 21.03.2015 FOR THE YEAR 2007-08 PASSED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 11015 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 Exts.P1 and P1(a) penalty orders for the assessment years 2006-07, 2007-08 respectively, the petitioner had preferred Exts.P2 and P2(a) revision petitions before the 2nd respondent. Along with the revisions, the petitioner had also preferred Exts.P3 and P3(a) stay petitions. The 2nd respondent has now passed Exts.P4 and P4(a) orders 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 Exts.P4 and P4(a) 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.P4 and P4(a) orders 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