IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 11201 of 2015 (A)

PETITIONER :

M/S.COOL MASTER
PANDALAM
REPRESENTED BY ITS PARTNER
BINU PANICKER.

BY ADV. SMT.S.K.DEVI

RESPONDENT(S) :
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1. **THE COMMERCIAL TAX OFFICER**
   DEPT. OF COMMERCIAL TAXES
   ADOOR – 681 523.

2. **THE VALUE ADDED TAX APPELLATE TRIBUNAL**
   THIRUVANANTHAPURAM – 695 001.

R1 & R2 BY GOVT. PLEADER SMT. SHOBA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 11201 of 2015 (A)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE ASSESSMENT ORDER NO. 32030397201/2011/12 DATED 28-12-2013.

EXT.P2 COPY OF THE APPELLATE ORDER NO. KVATA (PTA) 36/14 DATED 6-8-2014.

EXT.P3 COPY OF THE APPEAL DATED 14-11-2014.

EXT.P4 COPY OF THE MODIFIED ORDER DATED 10-10-2014.

EXT.P5 COPY OF THE STAY ORDER INTP NO. 168 OF 2014 IN TA (VAT) NO. 51 OF 2014 DATED 12-202015.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.11201 of 2015

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Dated this the 7th day of April, 2015

<u>J U D G M E N T</u>

Against Ext.P2 appellate order, petitioner preferred Ext.P3 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred a stay petition. The 2nd respondent has now passed Ext.P5 order on the stay petition directing the petitioner to pay ½ of the tax disputed and also to furnish security for the balance tax due within 30 days as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Ext.P2 appellate order.

2. In the writ petition, the petitioner impugns the said conditional order 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 for the petitioner and also the learned Government Pleader for the respondents.

On a consideration of the facts and circumstances of the case and submissions made across the bar, I dispose the writ petition with the following directions:-

(i) In Ext.P5 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.P5 order is quashed and the 2nd respondent is directed to reconsider the matter and pass fresh orders in the stay petition, within one month from the date of receipt of a copy of this judgment after hearing the petitioner.

(iii) Recovery steps, if any, 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

mns