

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 11803 of 2015 (A)

PETITIONER(S):

**JINESH K.J.,
PROPRIETOR, MOTHER LAND,
EDATHIRINJI, PADIYOOR,
MUKUNDAPURAM, THRISSUR.**

BY ADV. SRI.K.A.SREEJITH

RESPONDENT(S):

**ASSISTANT COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES, THRISSUR 680003.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C).NO.11803/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORDER PASSED IN STAY PETITION IN K.W.A.T.A.NO.97/15.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.11803 OF 2015 (A)

Dated this the 9th day of April, 2015

J U D G M E N T

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003. Against the assessment order, the petitioner had preferred an appeal and stay petition before the respondent. The respondent has now passed Ext.P1 order on the stay petition 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 order of stay, inter alia, on the ground that the 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 respondent.

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.P1 order, the 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.P1 order is quashed and the respondent is directed to reconsider the matter and pass fresh orders in the stay petition 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 respondent, as directed above, and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp