

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

WP(C).No. 21566 of 2015 (U)

PETITIONER :

**M/S. INFINITE MOTORS
KAYAMKULAM, ALAPPUZHA
REPRESENTED BY ITS MANAGING PARTNER
NIZAR MAKKIYIL, AGED 44 YEARS
S/O. ABDUL RAHMAN KUNJU
MAKKIYIL HOUSE, PUNNAPPRA P.O.,
ALAPPUZHA, PIN 688 004.**

**BY ADVS.SRI.P.A.ABDUL JABBAR
SRI.H.ABDUL LATHIEF**

RESPONDENT(S) :

- 1. INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES, CHENGANNUR, PIN – 689 121.**
- 2. DY. COMMISSIONER (APPEALS)
COMMERCIAL TAXES, KOLLAM, PIN – 691 002.**
- 3. COMMERCIAL TAX OFFICER – I
COMMERCIAL TAX OFFICE, KAYAMKULAM
ALAPPUZHA DISTRICT, PIN – 690 502.**

R1 TO R3 BY GOVT. PLEADER SMT. SHOBA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 21566 of 2015 (U)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE ASSESSMENT ORDER NO.32040925997/2012-13 ISSEUD
BY THE 3RD RESPONDENT.

EXT.P2 COPY OF THE INTERIM ORDER PASSED IN APPEAL
NO. KVATA (ALPY) 169/2015 BY THE 2ND RESPONDENT.

EXT.P3 COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT TO THE
PETITIONER.

EXT.P4 COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT TO THE
CANARA BANK, KAYAMKULAM.

EXT.P5 COPY OF THE NOTICE ISSUED BY THE CANARA BANK, KAYAMKULAM
TO THE PETITIONER.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.21566 of 2015
.....

Dated this the 17th day of July, 2015

J U D G M E N T

Against Ext.P1 assessment order, petitioner preferred appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred a stay petition. The 2nd respondent has now passed Ext.P2 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 Ext.P1 assessment 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.P2 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.P2 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