IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

WP(C).No. 22850 of 2015 (E)

PETITIONER(S):

M/S.POPULAR VEHICLES AND SERVICES LTD.
MAMANGALAM, KOCHI-682 019
REPRESENTED BY ITS CHIEF MANAGER-ACCOUNTS, ANTONY V.V

BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH MENON
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS
SRI.RAJA KANNAN

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT.
TAXES DEPARTMENT, SECRETARIAT
THIRUVANANTAHPURAM-695 001

2. THE ASSISTANT COMMISSIONER
SPECIAL CIRCLE -III, COMMERCIAL TAXES COMPLEX
ERNAKULAM, KOCHI-682 015

3. THE DEPUTY COMMISSIONER (APPEALS)-II
COMMERCIAL TAXES, ERNAKULAM-682 015

4. THE INSPECTING ASSISTANT COMMISSIONER,
COMMECRCIAL TAXES, KAKKANAD, ERNAKULAM 682 030.

BY SR.GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 22850 of 2015 (E)

<u>APPENDIX</u>

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE ASSESSMENT ORDER DT. 19/01/15 ISSUED BYT HE 2ND RESPONDENT FOR THE YEAR 2010-11

EXT.P2: TRUE COPY OF THE RECTIFICATION PETITION (WITHOUT ANNEXURES) DT. 9/2/15 FILED U/S. 66 OF THE ACT BEFORE THE 2ND RESPONDENT

EXT.P3: TRUE COPY OF THE CONDITIONAL ORDER OF STAY DT. 2/7/15 PASSED BY THE 3RD RESPONDNET.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P. A. TO JUDGE

Pn

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 22850 of 2015

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Dated this the 18th day of August, 2015

J U D G M E N T

The petitioner impugning conditional order of stay in appeal filed against the assessment, has approached this Court. The petitioner's main contention is that, though the appellate authority has reproduced the petitioner's arguments none of the grounds urged in the appeal has been considered for imposing conditions. It is further submitted that, when the petitioner made out a case, that ought to have been considered even for imposing conditions.

2. This Court in **Archana Agencies V. Commercial Tax Officer [2014 (2) KLT 715]** held that while imposing condition the appellate authority must state the reasons, justifying the same.

3. The petitioner has placed before this Court copy of computation of various head of accounts and submits that if this has taken into account, no condition would have been imposed on the petitioner for granting stay.

4. Learned Government Pleader opposes the prayer of

the petitioner and submits that these are all matters deserve attention during the final hearing of the matter and not at the stage where the stay was granted.

5. The appellate authority has not stated any reasons in the impugned order for imposing condition. The law has been declared in **Archana Agencies case** (cited supra) that the appellate authority is bound to state the reasons for imposing conditions.

6. In view of the fact that, no reason has been stated for imposing condition, the impugned order is set aside. The appellate authority is directed to reconsider the matter, within one month after notice to the petitioner. All the recovery steps shall be deferred till the disposal of the stay application.

This writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

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