IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WP(C).No. 25195 of 2015 (Y)

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PETITIONER(S):

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BINO GOPINATH, AGED 44 YEARS
S/O.GOPINATH, BHASURI HOUSE, KURINJIKKAL LANE,
AYYANTHOLE, THRISSUR DISTRICT
PREVIOUSLY RESIDING AT A8 MAITHRI PARK
AYYANTHOLE P.O., THRISSUR.

BY ADV. SRI.RAJIT

RESPONDENT(S):

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1. DISTRICT COLLECTOR
   COLELCTORATE, AYYANTHOLE, THRISSUR DISTRICT. 680001

2. THE DEPUTY TAHSILDAR (RR)
   THRISSUR TALUK, THRISSUR DISTRICT.680001

3. THE DEPUTY COMMISSIONER (APPEALS)
   DEPARTMENT OF COMMERCIAL TAXE, THRISSUR-680 004.

4. THE COMMERCIAL TAX OFFICER
   (WC-LT)-1, OFFICE OF THE DEPUTY COMMISSIONER
   DEPARTMENT OF COMMERCIAL TAXES, THRISSUR-680 004.

5. THE ASSISTANT COMMISSIONER (APPEALS)
   DEPARTMENT OF COMMERCIAL TAXES, THRISSUR-680 004.

R BY GOVERNMENT PLEADER SMT.LILLY.K.T.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**WP(C).No. 25195 of 2015 (Y)**
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**
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**EXT.P1.A TRUE COPY OF THE ORDER BEARING NO.32081690327/2012-13 DATED 28/12/2012 PASSED BY THE 4TH RESPONDENT IN RESPECT OF THE PERIOD OD 1/4/2012 TO 30/6/2012 AND FOR THE PERIOD 1/7/2012 TO 30/9/2012.**

**EXT.P2.A TRUE COPY OF THE ORDER BEARING NO.32081690327/2012-13 DATED 31/12/2014 PASSED BY THE 4TH RESPONDENT IN RESPECT OF THE PERIOD OD 1/4/2012 TO 31/3/2012.**

**EXT.P3.A TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 2ND RESPONDENT DATED 28/2/2015.,**

**EXT.P4.A TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 20/3/2015.**

**EXT.P5.A TRUE COPY OF THE ORDER NO.KVATA 113/2015 DATED 10/7/2015 PASSED BY THE 5TH RESPONDENT**

**RESPONDENT(S)' EXHIBITS: NIL.**
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**//TRUE COPY//**

**P.S. TO JUDGE**

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C).NO.25195 OF 2015 (Y)**

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**Dated this the 1st day of September, 2015**

**J U D G M E N T**

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003. Against Ext.P2 assessment order, the petitioner has preferred Ext.P4 appeal along with a stay petition before the 3rd respondent. The 5th respondent has now passed Ext.P5 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.P2 assessment order.

2. In the writ petition, the petitioner impugns the said conditional order of stay, inter alia, on the ground that the 5th 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.

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.P5 order, the 5th respondent does not state reasons as to why the petitioner was required to deposit the amounts as a condition for the gr\ant 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 5th 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 5th respondent, as directed above, and communicated to the petitioner.

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

prp