

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

WP(C).No. 26043 of 2015 (E)

PETITIONER(S):

**M/S. PRANAVAM LIFE CARE INSTRUMENTS (P) LTD.,
NEAR ARYAVAIDYASALA, ELLIKKAPPADY,
EROOR, TRIPUNITHURA-682 306,
REPRESENTED BY ITS MANAGING DIRECTOR,
VIMALA SASIDHARAN.**

**BY ADVS.SRI.HARISANKAR V. MENON,
SMT.MEERA V.MENON.**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
1ST CIRCLE, TRIPUNITHURA-682 301.**
- 2. THE ASST. COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM-682 015.**

BY GOVT. PLEADER SRI.LIJU V.STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ORDER FOR THE YEAR 2009-10 ISSUED BY THE 1ST RESPONDENT DATED 10/10/2014.
- EXT.P1A COPY OF THE ORDER FOR THE YEAR 2010-11 ISSUED BY THE 1ST RESPONDENT DATED 10/10/2014.
- EXT.P1B COPY OF THE ORDER FOR THE YEAR 2011-12 ISSUED BY THE 1ST RESPONDENT DATED 10/10/2014.
- EXT.P1C COPY OF THE ORDER FOR THE YEAR 2012-13 ISSUED BY THE 1ST RESPONDENT DATED 10/10/2014.
- EXT.P2 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT YEAR 2009-10 DATED 27/10/2014.
- EXT.P2A COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT YEAR 2010-11 DATED 27/10/2014.
- EXT.P2B COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT YEAR 2011-12 DATED 27/10/2014.
- EXT.P2C COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT YEAR 2012-13 DATED 27/10/2014.
- EXT.P3 COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT YEAR 2009-10 DATED 27/10/2014.
- EXT.P3A COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT YEAR 2010-11 DATED 27/10/2014.
- EXT.P3B COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT YEAR 2011-12 DATED 27/10/2014.
- EXT.P3C COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT YEAR 2012-13 DATED 27/10/2014.
- EXT.P4 COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT KVATA 3017 & 3018/2014 DATED 25/07/2015.
- EXT.P4A COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT YEAR 2011-12 KVATA 3019 & 3020/2014 DATED 25/07/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J

.....
W.P.(C).Nos.26043 of 2015

.....
Dated this the 31st day of August, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P4 series of orders passed by the 2nd respondent in appeals preferred by the petitioner against assessment orders for the assessment years 2009-2010 to 2012-2013. Against Ext.P1 series of assessment orders, petitioner preferred Ext.P2 series of appeals before the 2nd respondent. Along with the appeals, the petitioner had also preferred Ext.P3 series of stay petitions. The 2nd respondent has now passed Ext.P4 series of orders 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.P4 series of assessment orders.

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.P4 series of orders, 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.P4 series of orders are quashed and the 2nd respondent is directed to reconsider the matter and pass fresh orders in the stay petitions, 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