IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

WP(C).No. 26537 of 2015 (N)

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PETITIONER :

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ABHISH SOLOMON
ABHISH BHAVAN, VELLIMON WEST, KUNDARA
KOLLAM-691 511.

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

RESPONDENT(S) :

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1. THE COMMERCIAL TAX OFFICER (WORKS CONTRACT)
   CIVIL STATION, KOLLAM-691001.

2. DEPUTY COMMISSIONER (APPEALS)-II
   DEPARTMENT OF COMMERCIAL TAXES, KOLLAM-691 001.

3. THE TAHSILDAR
   TALUK OFFICE, KOLLAM-691 001.

R1 TO R3 BY GOVT. PLEADER SRI. LIJU V. STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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**WP(C).No. 26537 of 2015 (N)**
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**APPENDIX**

**PETITIONERS' EXHIBITS :**
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| **EXT. P1 :** | **COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED 29-10-2014.** |
| **EXT. P2 :** | **COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 17-6-2015.** |
| **EXT. P3 :** | **COPY OF THE STAY PETITION FILED BY THE PETITIONER DATED 17-6-2015.** |
| **EXT. P4 :** | **COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 7-8-2015.** |
| **EXT. P5 :** | **COPY OF NOTICE IN FORM NO.1 ISSUED BY THE 3RD RESPONDENT DATED 30-6-2015.** |
| **EXT. P6 :** | **COPY OF NOTICE IN FORM NO.10 ISSUED BY THE 3RD RESPONDENT DATED 30-6-2015.** |

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

**P.A. TO JUDGE**

**Mn**

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

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**W.P.(C). No. 26537 of 2015**

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**Dated this the 3rd day of September, 2015**

## JUDGMENT

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003. Against Ext.P1 assessment order for the assessment year 2011-2012, the petitioner had preferred Ext.P2 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred Ext.P3 stay petition. The 2nd respondent has now passed Ext.P4 order 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 orders 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 appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

4. 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.P4 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.P4 order is quashed and the 2nd respondent is directed to reconsider the matter and pass fresh orders in the stay petitions filed by the petitioner, within one month 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 2nd respondent, as directed above, and communicated to the petitioner.

Sd/-
**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

das