IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

WP(C).No. 27043 of 2015 (E)

PETITIONER:

M/S.SPENCERS RETAIL LTD.,
M.G. ROAD, PALAYAM, TRIVANDRUM,
REPRESENTED BY ITS AUTHORIZED SIGNATORY,
ANEESH KUMAR. M.

BY ADVS. SRI.A.KUMAR,
SMTG.MINI.

RESPONDENTS:
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1. DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM-695 001.

2. ASSISTANT COMMISSIONER (ASSESSMENT),
SPECIAL CIRCLE, DEPARTMENT OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM- 695 001.

BY GOVT. PLEADER SRI.LIJU V.STEPHEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 27043 of 2015 (E)

APPENDIX

PETITIONER'S EXHIBITS:-

P1:- TRUE COPY OF THE ASSESSMENT ORDER FOR THE ASSESSMENT YEAR 2008-2009, DTD. 30/04/2015.

P2:- TRUE COPY OF THE ASSESSMENT ORDER FOR THE ASSESSMENT YEAR 2009-10 DTD. 30/04/2015.

P3:- TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2010-2011 DTD. 30/04/2015.

P4:- TRUE COPY OF APPEAL FOR THE ASSESSMENT YEAR 2008-09 DTD. 13/06/2015.

P4(A):-TRUE COPY OF APPEAL FOR THE ASSESSMENT YEAR 2009-10 DTD. 13/06/2015.

P4(B):-TRUE COPY OF APPEAL FOR THE ASSESSMENT YEAR 2010-2011 DTD. 13/06/2015.

P5:- TRUE COPY OF THE APPLICATIONS FOR STAY FOR THE ASSESSMENT YEAR 2008-09 DTD. 13/06/2015.

P5(A):-TRUE COPY OF THE APPLICATIONS FOR STAY FOR THE ASSESSMENT YEAR 2009-10 DTD. 13/06/2015.

P5(B):-TRUE COPY OF THE APPLICATIONS FOR STAY FOR THE ASSESSMENT YEAR 2010-11 DTD. 13/06/2015.

P6:- A TRUE COPY OF THE ORDER DTD. 15/07/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.27043 of 2015

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Dated this the 8th day of September, 2015

J U D G M E N T

Against Exts.P1 to P3 assessment orders, petitioner preferred Exts.P4 series of appeals before the 1st respondent. Along with the appeals, the petitioner had also preferred Exts.P5 series of stay petitions. The 1st respondent has now passed Ext.P6 order on the stay petition directing the petitioner to pay 30% of amount as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Exts.P1 to P3 assessment orders.

2. In the writ petition, the petitioner impugns the said conditional order of stay, inter alia, on the ground that the 1st 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.P6 order, the 1st 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.P6 order is quashed and the 1st 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 1st respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns