IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

WP(C).No. 27447 of 2015 (E)

PETITIONER :

M/S.TRANSWAVE EQUIPMENTS PVT. LTD.,
16/205B, N.F. GATE ROAD, PETTA EAST, TRIPUNITHURA,
REPRESENTED BY ITS MANAGING DIRECTOR NARAYAN POTTI.

BY ADVS.SRI.RAJESH NAMBIAR
SRI.N.R.SAJ

RESPONDENT(S):
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1. **ASST.COMMISSIONER,**
   SPECIAL CIRCLE-II, ERNAKULAM-682 031

2. **DEPUTY COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, ERNAKULAM-682 031

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.27447/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1	COPY OF THE ASSESSMENT ORDER DATED 20/07/2015 FOR THE YEAR 2012-13
P2	COPY OF THE RECTIFICATION ORDER DATED 3/08/2015
P3	COPY OF THE APPEAL FILED AGAINST EXT.P1 ASSESSMENT ORDER
P4	COPY OF THE STAY PETITION FILED IN EXT.P3 APPEAL
P5	COPY OF THE ORDER DATED 26/08/2015 IN EXT.P5 STAY PETITION.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.27447 of 2015

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Dated this the 11th day of September, 2015

J U D G M E N T

Against Ext.P1 assessment order, petitioner preferred Ext.P2 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred Ext.P4 stay petition. The 2nd respondent has now passed Ext.P5 order on the stay petition directing the petitioner to pay 30% amount as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Ext.P1assessment order.

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.P5 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.P5 order is quashed and the 2nd 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 2nd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns