IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 28984 of 2015 (W)

PETITIONER :

C.CHANDRAN,
PROPRIETOR, M/S. HARIVISHNU AGENCIES,
MARKET JUNCTION, ALAPPUZHA-1.

BY ADV. SRI.A.KRISHNAN

RESPONDENT(S):

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1. THE COMMERCIAL TAX OFFICER,
   COLLECTORATE, ALAPPUZHA-688 001

2. DEPUTY COMMISSIONER (APPEALS) II COMMERCIAL TAXES,
   BAPPUJI NAGAR, ASRAAMAM, KOLLAM-691 002.

3. THE THASILDAR (REVENUE RECOVERY),
   AMBALAPPUZHA TALUK, ALAPPUZHA-688 001

4. THE STATE OF KERALA,
   REPRESENTED BY THE SECRETARY,
   COMMERCIAL TAXES DEPARTMENT,
   THIRUVANANTHAPURAM-695 001

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).NO.28984/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1	**COPY OF THE ASSESSMENT ORDER DATED 20/06/2015 FOR APRIL, 2014**
P1(A)	**COPY OF THE ASSESSMENT ORDER DATED 28/07/2015 FOR MAY, 2014**
P1(B)	**COPY OF THE ASSESSMENT ORDER DATED 28/07/2015 FOR JUNE, 2014**
P1(C)	**COPY OF THE ASSESSMENT ORDER DATED 28/07/2015 FOR OCTOBER, 2014**
P2	**COPY OF THE DEMAND NOTICE DATED 28/07/2015**
P2(A)	**COPY OF THE DEMAND NOTICE DATED 28/07/2015**
P2(B)	**COPY OF THE DEMAND NOTICE DATED 28/07/2015**
P2(C)	**COPY OF THE DEMAND NOTICE DATED 29/07/2015**
P3	**COPY OF THE APPEAL DATED 12/07/2015 FILED BEFORE THE 2ND RESPONDENT**
P3(A)	**COPY OF THE APPEAL DATED 18/08/2015 FILED BEFORE THE 2ND RESPONDENT**
P3(B)	**COPY OF THE APPEAL DATED 18/08/2015 FILED BEFORE THE 2ND RESPONDENT**
P3(C)	**COPY OF THE APPEAL DATED 18/08/2015 FILED BEFORE THE 2ND RESPONDENT**
P4	**COPY OF THE STAY PETITION DATED 18/08/2015 IN EXT.P3 APPEAL**
P4(A)	**COPY OF THE STAY PETITION DATED 18/08/2015 IN EXT.P3 (A) APPEAL**
P4(B)	**COPY OF THE STAY PETITION DATED 18/08/2015 IN EXT.P3 (B) APPEAL**
P4(C)	**COPY OF THE STAY PETITION DATED 18/08/2015 IN EXT.P3 © APPEAL**
P5	**COPY OF THE EARLY HEARING PETITION DATED 18/08/2015 IN EXT.P3 APPEAL**
P5(A)	**COPY OF THE EARLY HEARING PETITION DATED 18/08/2015 IN EXT.P3 (A) APPEAL**
P5(B)	**COPY OF THE EARLY HEARING PETITION DATED 18/08/2015 IN EXT.P3 (B) APPEAL**
P5(C)	**COPY OF THE EARLY HEARING PETITION DATED 18/08/2015 IN EXT.P3 (C) APPEAL**
P6	**COPY OF THE COMMON ORDER DATED 25/08/2015**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

sts **P.A.TO JUDGE**

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 28984 of 2015
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Dated this the 30th day of September, 2015

JUDGMENT

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003. Against Ext.P1 series of assessment orders for the assessment year 2014-2015, the petitioner had preferred Ext.P3 series of appeals before the 2nd respondent. Along with the appeal, the petitioner had also preferred Ext.P4 series of stay petitions. The 2nd respondent has now passed Ext.P6 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.P6 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.P6 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

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