IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C).No. 29316 of 2015 (L)

PETITIONER:

M/S. BIEN CUIT, J.P.COMPLEX,
GURUVAYUR ROAD, WEST FORT,
THRISSUR, REPRESENTED BY ITS
MANAGING PARTNER, P.K.SUBEESH.

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

RESPONDENT(S):
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1. THE COMMERCIAL TAX OFFICER,
   3RD CIRCLE, THRISSUR - 680 001.

2. THE ASST. COMMISSIONER(APPEALS),
   DEPARTMENT OF COMMERCIAL TAXES,
   THRISSUR - 680 001.

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 29316 of 2015 (L)

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : COPY OF ASSESSMENT ORDER FOR THE YEAR 2014-15 ISSUED BY THE 1ST RESPONDENT DATED 21.7.2015.

EXT. P1(A) : COPY OF ASSESSMENT ORDER FOR APRIL 2015 ISSUED BY THE 1ST RESPONDENT DATED 21.7.2015.

EXT. P1(B) : COPY OF ASSESSMENT ORDER FOR MAY 2015 ISSUED BY THE 1ST RESPONDENT DATED 21.7.2015.

EXT. P2 : COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 30.7.2015.

EXT. P2(A): COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 30.7.2015.

EXT. P2(B) : COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 30.7.2015.

EXT. P3 : COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 13.8.2015.

EXT. P3(A) : COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 13.8.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.29316 of 2015

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Dated this the 29th day of September, 2015

J U D G M E N T

Against Exts.P1 series of assessment orders, petitioner preferred Exts.P2 series of appeals before the 2nd respondent. Along with the appeals, the petitioner had also preferred stay petitions. The 2nd respondent has now passed Exts.P3 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 Exts.P1 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 Exts.P3 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) Exts.P3 series of orders are 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