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. 29602 of 2015 (A)

PETITIONER :

LIFE LINE SUPER SPECIALTY HOSPITAL,
ADOOR, PATHANAMTHITTA.
(REPRESENTED BY DR.S.PAPPACHAN, MANAGING PARTNER).

BY ADVS.SRI.K.N.SREEKUMARAN
SRI.P.D.UNNIKKANNAN NAIR
SMT.V.P.SEENA DEVI

RESPONDENT(S):
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1. COMMERCIAL TAX OFFICER, ADOOR, PATHANAMTHITTA-689 645
2. DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, KOLLAM-691 001

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.29602/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE ASSESSMENT ORDER NO.32030300147/2012-13 DATED 18/5/2015 ISSUED BY THE 1ST RESPONDENT

P2 COPY OF THE APPEAL FILED ON 25/8/2015 AGAINST EXT.P1 BEFORE THE 2ND RESPONDENT

P2(A) COPY OF THE STAY APPLICATION FILED IN EXT.P2 APPEAL BEFORE 2ND RESPONDENT

P2(B) COPY OF THE EARLY APPLICATION FILED IN EXT.P2 APPEAL BEFORE 2ND RESPONDENT

P3 COPY OF THE STAY ORDER NO.KVATA(PTA) 240/15 DATED 9/9/2015 ISSUED BY THE 2ND RESPONDENT

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No.29602 of 2015

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 assessment order, petitioner had preferred Ext.P2 appeal and Ext.P2(a) stay petition before the 2nd respondent. The 2nd respondent has now passed Ext.P3 order on the stay petition directing the petitioner to pay 30% of the balance tax and interest demanded for the year as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Ext.P1 assessment 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 appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

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.P3 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.P3 order is quashed and the 2nd respondent is directed to reconsider the matter and pass fresh orders in the stay petition filed by the petitioner, within two months 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

rsr

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