

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(C).No. 30572 of 2015 (V)

PETITIONER(S):

**VECTOR E COMMERCE PRIVATE LIMITED,
PULLEPPADY ROAD, ERNAKULAM, COCHIN-35,
REPRESENTED BY ITS DIRECTOR,
RAGHUNATH LAKSHMANAN.**

**BY ADVS.SRI.IVANS C. CHAMAKKAL,
SRI.R.MURALIDHARAN (AROOR).**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
SECOND CIRCLE, DEPARTMENT OF COMMERCIAL TAXES,
CLASS TOWER, OLD RAILWAY STATION ROAD,
ERNAKULAM, PIN-682 018.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM, PIN-682 015.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM AT CIVIL STATION, KAKKANAD, PIN-682 030.**

BY GOVT. PLEADER SRI.LIJU V.STEPHEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 30572 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ASSESSMENT ORDER PASSED BY THE
1ST RESPONDENT FOR 2014-15, DATED 17/08/2015.**
- EXT.P2 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT DATED 24/09/2015.**
- EXT.P3 COPY OF THE STAY ORDER PASSED BY THE 2ND RESPONDENT
DATED 29/09/2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.30572 of 2015

.....
Dated this the 8th day of October, 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 stay petition. The 2nd respondent has now passed Ext.P3 order 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 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 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.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, 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