

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 30894 of 2015 (J)

PETITIONER(S):

**M/S.COCHIN METRO HOTELS PRIVATE LIMITED,
REPRESENTED BY ITS MANAGING DIRECTOR,
THAMMANAM, ERNAKULAM, KOCHI - 682 032.**

**BY ADVS.DR.K.P.SATHEESAN (SR.)
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN
SRI.K.SUDHINKUMAR**

RESPONDENT(S):

- 1. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM, KOCHI - 682 018.**
- 2. THE INTELLIGENCE OFFICER,
SQUAD IV, DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM, KOCHI - 682 018.**

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 30894 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE ORDER NO.OR-466/2014-15 DTD.27.12.2014 ISSUED BY
THE 2ND RESPONDENT.**

**EXT.P2: TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 2ND RESPONDENT
DTD.27.12.2014.**

**EXT.P3: TRUE COPY OF THE MEMORANDUM OF APPEAL FILED BY THE PETITIONER
BEFORE THE FIRST RESPONDENT DTD.16.2.2015.**

**EXT.P4: TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
DTD.16.2.2015.**

**EXT.P5: TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT
DTD.13.7.2015.**

**EXT.P6: TRUE COPY OF THE LETTER NO.OR-466/14-15 DTD.29.9.2015 ISSUED BY THE
2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.STO JUDGE

Ms v >

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 30894 of 2015

Dated this the 12th day of October, 2015

JUDGMENT

Against Ext.P1 assessment order for the assessment year 2014-2015, the petitioner had preferred Ext.P3 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 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.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 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