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. 30913 of 2015 (L)

PETITIONER(S):

ISSAC PAUL VADAKKAN,
COCHIN GAS AGENCIES & COCHIN BRICKS,
SUB JAIL ROAD, ALUVA.

BY ADV. SRI.AJI V.DEV.

RESPONDENT(S):
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1. THE COMMERCIAL TAX OFFICER,
   ALUVA-683 101.

2. THE ASST. COMMISSIONER (APPEALS),
   COMMERCIAL TAXES, ERNAKULAM-682 015.

3. THE DEPUTY TAHSILDAR,
   (REVENUE RECOVERY), KUNNATHUNAD,
   PERUMBAVOOR-683 542.

BY GOVT. 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:

rs.

WP(C).No. 30913 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	**COPY OF THE ASSESSMENT ORDER FOR APRIL/2014 DATED 24/12/2014.**
EXT.P1A	**COPY OF THE ASSESSMENT ORDER FOR MAY/2014 DATED 24/12/2014.**
EXT.P1B	**COPY OF THE ASSESSMENT ORDER FOR JUNE/2014 DTED 24/12/2014.**
EXT.P2	**COPY OF THE MONTHLY RETURN FILED FOR APRIL/2014 DATED 20/02/2015.**
EXT.P2A	**COPY OF THE MONTHLY RETURN FILED FOR MAY/2014 DATED 22/09/2015.**
EXT.P2B	**COPY OF THE MONTHLY RETURN FILED FOR JUNE/2014 DATED 22/09/2015.**
EXT.P3	**COPY OF THE APPEAL FILED ALONG WITH PETITION FOR STAY AND DELAY CONDONATION FOR APRIL/2014 DATED 09/07/2015.**
EXT.P3A	**COPY OF THE APPEAL FILED ALONG WITH PETITION FOR STAY AND DELAY CONDONATION FOR MAY/2014 DATED 09/07/2015.**
EXT.P3B	**COPY OF THE APPEAL FILED ALONG WITH PETITION FOR STAY AND DELAY CONDONATION FOR JUNE/2014 DATED 09/07/2015.**
EXT.P4	**COPY OF THE INTERLOCUTORY ORDER STIPULATING CONDITIONAL STAY DATED 28/09/2015.**
EXT.P5	**COPY OF THE REVENUE RECOVERY NOTICE ISSUED TO THE PETITIONER DATED 19/06/2015.**

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 30913 of 2015
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Dated this the 12th day of October, 2015

JUDGMENT

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003. Against Ext.P1 series of assessment orders, the petitioner had preferred Ext.P3 series of appeals along with stay petitions and delay condonation petitions before the 2nd respondent. The 2nd respondent has now passed Ext.P4 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.P4 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.P4 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

das