**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937**

**WP(C).No. 32520 of 2015 (L)**
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**PETITIONER :**
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**VASAN HEALTH CARE PVT. LTD., 34-563. NH BYE PASS PALARIVATTOM, REPRESENTED BY S. RAJARATHNAM GM KERALA OPERATIONS.**

**BY ADVS.SRI.A.KUMAR**
**SMTG.MINI(1748)**

**RESPONDENTS :**
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1. **THE DEPUTY COMMISSIONER (APPEALS)- II COMMERCIAL TAXES, ERNAKULAM - 682016.**

2. **THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE - III, COMMERCIAL TAXES, ERNAKULAM - 682016.**

3. **COMMERCIAL TAX OFFICER, REVENUE RECOVERY, KAKKANADU, ERNAKULAM - 682033.**

**BY GOVERNMENT PLEADER SMT. LILLY K.T.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**bp**

**WP(C).No. 32520 of 2015 (L)**

## APPENDIX

**PETITIONER'S EXHIBITS :**

**P1:** COPY OF THE ASSESSMENT ORDER FOR FEBRUARY 2015 DT 31/7/2015.

**P2:** COPY OF THE ASSESSMENT ORDER FOR MARCH 2015 DT 31/7/2015.

**P3:** COPY OF THE MEMORANDUM OF APPEAL FOR THE MONTH OF FEBRUARY 2015 DT 14/9/2015.

**P4:** COPY OF THE MEMORANDUM OF APPEAL FOR THE MONTH OF MARCH 2015 DT 14/9/2015.

**P5:** COPY OF THE APPLICATION FOR STAY FOR THE MONTH OF FEBRUARY 2015 DT 14/9/2015.

**P6:** COPY OF THE APPLICATION FOR STAY FOR THE MONTH OF MARCH 2015 DT 14/9/2015.

**P7:** COPY OF THE ORDER DT 7/10/2015.

**P8:** COPY OF THE REVENUE RECOVERY NOTICE DT 29/9/2015.

**P9:** COPY OF THE REVENUE RECOVERY NOTICE DT 29/9/2015.

**RESPONDENT'S EXHIBITS : NIL.**

**//TRUE COPY//**

**P.A.TO JUDGE**

**bp**

**A.K.JAYASANKARAN NAMBIAR, J.**
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**W.P.(C).NO.32520 OF 2015 (L)**
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**Dated this the 27th day of October, 2015**

**J U D G M E N T**

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003 on the files of the 2nd respondent. Against Exts.P1 and P2 assessment orders, the petitioner had preferred Exts.P3 and P4 appeals and Exts.P5 and P6 stay petitions before the 1st respondent. The 1st respondent has now passed Ext.P7 order on the stay petitions directing the petitioner to pay an amount of Rs.6,00,000/- each as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Exts.P1 and P2 assessment orders.

2. In the writ petition, the petitioner impugns the said conditional order of stay, inter alia, on the ground that the 1st 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.P7 order, the 1st respondent does not state reasons as to why the petitioner was required to deposit the amount 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.P7 order is quashed and the 1st respondent is directed to reconsider the matter and pass fresh orders in the stay petitions 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 1st respondent, as directed above, and communicated to the petitioner.

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

prp/27/10/15