IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 32810 of 2015 (A)

PETITIONER(S):

M/S.MADHAVARAJA CLUB,
ENGLISH CHURCH ROAD,
PALAKKAD, REPRESENTED BY ITS
SECRETARY, C.PRADEEPKUMAR MENON.

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENT(S):

1. COMMERCIAL TAX OFFICER,
1ST CIRCLE, PALAKKAD - 678 001.

2. ASST. COMMIER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD - 678 001.

3. INSPECTING ASST. COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD - 678 001.

BY GOVERNMENT PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 32810 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER FOR THE YEAR 2009-10.

EXT.P1(a): COPY OF ORDER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER FOR THE YEAR 2010-11.

EXT.P1(b): COPY OF ORDER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER FOR THE YEAR 2011-12.

EXT.P2: COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P2(a): COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P2(b): COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P3: COPY OF STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P3(a): COPY OF STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P3(b): COPY OF STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P4: COPY OF ORDER ISSUED BY THE 2ND RESPONDENT.

EXT.P4(a): COPY OF ORDER ISSUED BY THE 2ND RESPONDENT.

EXT.P4(b): COPY OF ORDER ISSUED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 32810 of 2015

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Dated this the 28th 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 for the assessment years 2009-10 to 2011-12, the petitioner had preferred Ext.P2 series of appeals before the 2nd respondent. Along with the appeal, the petitioner had also preferred Ext.P3 series of stay petitions. The 2nd respondent has now passed Ext.P4 series of order directing the petitioner to pay 40% 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 series of orders, 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 series of orders are 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 /28.10.15