IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 33719 of 2015 (L)

PETITIONER:

M/S.THE KERALA ROADWAYS,
K.R.S. TOWERS, INDRAGANDHI ROAD,
KOZHIKODE, REPRESENTED BY GENERAL
MANAGER (ACCOUNTS).

BY ADVS.SRI.ANIL D. NAIR
SRI.R.SREEJITH
SMT.ROSIE ATHULYA JOSEPH
SMT.O.A.NURIYA
KUM.SOUMYA PRAKASH
KUM.MEKHALA M.BENNY

RESPONDENT(S):

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1. **THE COMMERCIAL TAX OFFICER,**
   3RD CIRCLE, KOZHIKODE - 673 001.

2. **THE DEPUTY COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES -1, KOZHIKODE - 673 001.

3. **THE STATE OF KERALA,**
   REPRESENTED BY ITS SECRETARY (TAXES),
   SECRETARIAT, THIRUVANANTHPAURAM - 695 001.

BY GOVERNMENT PLEADER SMT.LILLY.K.T

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 33719 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS:

P1- **TRUE COPY OF THE ASSESSMENT ORDER FOR THE AY 1998-99 DATED 24.2.22015.**

P2- **TRUE COPY OF THE ASSESSMENT ORDER FOR THE AY 1999-2000 DATED 24.2.2015.**

P3- **TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 1998-99.**

P4- **TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 1999-2000.**

P5- **TRUE COPY OF THE STAY PETITION FILED BEFORE THE SECOND RESPONDENT FOR THE YEAR 1998-99.**

P6- **TRUE COPY OF THE STAY PETITION FILED BEFORE THE SECOND RESPONDENT FOR THE YEAR 1999-2000.**

P7- **TRUE COPY OF THE STAY ORDER DATED 12.10.2015.**

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.33719 of 2015

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Dated this the 6th day of November 2015

<u>JUDGMENT</u>

The petitioner is an assessee under the CST Act 1956. Against Exts.P1 and P2 Assessment orders, petitioner preferred Exts.P3 and P4 appeals before the 2nd respondent. Along with the appeals, the petitioner had also preferred Exts.P5 and P6 stay petitions. The 2nd respondent has now passed Ext.P7 order on the stay petition directing the petitioner to pay 30% of the total due amount 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 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.P7 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.P7 order is quashed. Considering the fact that the appeals preferred by the petitioner pertain to the assessment year 1998-99 and 1999-2000, instead of directing the 2nd respondent to pass fresh orders in the stay application preferred by the petitioner, I direct the 2nd respondent to consider and pass orders in the appeals preferred by the petitioner within a period of three months 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 orders are passed by the 2nd respondent, as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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