IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WP(C).No. 34521 of 2015 (M)

PETITIONER :

N.A. RAJU, S/O.ANTHAPPAN,
NEDUMPURAKKAL HOUSE, PUNKUNNAM VILLAGE,
THRISSUR DISTRICT.

BY ADV. SRI.M.K.DILEEP KUMAR

RESPONDENT :

THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES, THEVARA,
ERNAKULAM DISTRICT, PIN-682 016

BY GOVERNMENT PLEADER SRI.RANJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).NO.34521/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE RESPONDENT AGAINST THE ASSESSMENT ORDER FOR THE YEAR 2003-04

P2 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE RESPONDENT AGAINST THE ASSESSMENT ORDER FOR THE YEAR 2004-05

P3 COPY OF THE STAY ORDER NO.KVAT/1973/15 DATED 07/10/2015 PASSED BY THE RESPONDENT

P4 COPY OF THE STAY ORDER NO.KVAT/1974/15 DATED 07/10/2015 PASSED BY THE RESPONDENT

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.34521 of 2015

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Dated this the 16th day of November 2015

JUDGMENT

Against assessment orders under the KGST Act for the Assessment years 2003-04 and 2004-05, the petitioner preferred Exts.P1 and P2 appeals before the respondent. Along with the appeals, the petitioner had also preferred stay petitions. The respondent has now passed Exts.P3 and P4 orders on the stay petition 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 assessment orders.

2. In the writ petition, the petitioner impugns the said conditional orders of stay, inter alia, on the ground that the respondent had not exercised his discretion validly while passing the said orders.

3. I have heard the learned counsel for the petitioner and also the learned Government Pleader for the respondent.

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 Exts.P3 and P4 orders, the 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) Exts.P3 and P4 orders are quashed and the respondent is directed to reconsider the matter and pass fresh orders in the stay petition, within one month 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 fresh orders are passed by the respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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