IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 36870 of 2015 (G)

PETITIONER :

M/S. SITARAM ENTERPRISES, THRISSUR,
REPRESENTED BY ITS PARTNER,
SRI.T.S. VENKITARAMAN, AGED 61 YEARS

BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD
SRI.JACOB JOHN (TRIVANDRUM)

RESPONDENTS :

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1. **THE ASSISTANT COMMISSIONER (APPEALS), DEPARTMENT OF COMMERCIAL TAXES, THRISSUR - 680001.**

2. **COMMERCIAL TAX OFFICER - II, 3RD CIRCLE, THRISSUR - 680001.**

3. **TAHSILDAR (RR), THRISSUR - 680001.**

R1 TO R3 BY GOVERNMENT PLEADER SMT. LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 36870 of 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF THE ASSESSMENT ORDER DT 20/1/2014.

P2: COPY OF THE MEMORANDUM OF APPEAL DT 22/10/2014.

P3: COPY OF THE APPLICATION FOR STAY DT 22/11/2014.

P4: COPY OF CONDITIONAL ORDER PASSED IN APPLICATION FOR STAY DT 29/1/2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.36870 of 2015

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Dated this the 4th day of December, 2015

J U D G M E N T

Against Ext.P1 assessment order under the Kerala Value Added Tax Act, petitioner preferred Ext.P2 appeal before the 1st respondent. Along with the appeal, the petitioner had also preferred Ext.P3 stay petition. The 1st respondent has now passed Ext.P4 order 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 videExt.P1 assessment order.

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 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.P4 order, the 1st

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 **<u>Archana Agencies v Commercial Tax Officer - 2014 (2) KLT 715</u>** 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 1st 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 1st respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/04.12.15