

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

WP(C).No. 36934 of 2015 (N)

PETITIONER(S):

**M/S. SYNCHRONACE DEVICES PVT. LTD.,
2ND FLOOR, VISMAYA, 4TH LANE, TOC H SCHOOL ROAD,
VYTTLA, COCHIN-682 019, REPRESENTED BY ITS
MANAGING DIRECTOR MR.RAMKUMAR R.**

BY ADV. SMT.KLATHA.

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO
THE GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE ASST. COMMISSIONER-3, (AUDIT ASSESSMENT),
ERNAKULAM, MATTANCHERRY REGION,
COMMERCIAL TAXES, ERNAKULAM-682 015.**
- 3. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM-682 018.**
- 4. INSPECTING ASST. COMMISSIONER,
COMMERCIAL TAXES, KAKKANAD,
ERNAKULAM-682 030.**

BY GOVT. PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ASSESSMENT ORDERS FOR THE YEAR 2013-2014, DATED 15/09/2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- EXT.P1A COPY OF THE ASSESSMENT ORDERS FOR THE YEAR 2014-2015 DATED 15/09/2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- EXT.P1B COPY OF THE ASSESSMENT ORDERS FOR THE YEAR 2015-2016 DATED 15/09/2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- EXT.P2 COPY OF THE APPEAL IN FORM 29 AND GROUNDS OF APPEAL FILED BY THE PETITIONER AGAINST THE P1, ASSESSMENT ORDER FOR THE YEAR 2013-2014.
- EXT.P2A COPY OF THE APPEALS IN FORM 29 AND GROUNDS OF APPEAL FILED BY THE PETITIONER AGAINST THE P1A ASSESSMENT ORDER FOR THE YEAR 2014-2015.
- EXT.P2B COPY OF THE APPEALS IN FORM 29 GROUNDS OF APPEAL FILED BY THE PETITIONER AGAINST THE P1B ASSESSMENT ORDER FOR THE YEAR 2015-2016.
- EXT.P3 COPY OF THE DEMAND NOTICE IN FORM 12 DATED 15/09/2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER FOR THE YEAR 2013-2014.
- EXT.P3A COPY OF THE DEMAND NOTICE IN FORM 12 DATED 15/09/2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER FOR THE YEAR 2014-2015.
- EXT.P3B COPY OF THE DEMAND NOTICE IN FORM 12 DATED 15/09/2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER FOR THE YEAR 2015-2016.
- EXT.P4 COPY OF THE STAY ORDER NO.KVATA 2125/2015, 2126/2015 AND 2127/2015 DATED 21/11/2015 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER.

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**EXT.P5 COPY OF THE CERTIFICATE ISSUED BY THE VARIOUS REPUTED
HOSPITALS LIKE ANANTHAPURI HOSPITALS AND RESEARCH
INSTITUTE, GOVERNMENT MEDICAL COLLEGE HOSPITAL,
THIRUVANANTHAPURAM, LISIE HEART INSTITUTE, COCHIN,
SREE CHITRA INSTITUTE OF MEDICAL SCIENCES AND
TECHNOLOGY, TRIVANDRUM.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.36934 of 2015

Dated this the 7th day of December 2015

JUDGMENT

Against Ext.P1 series of Assessment orders, petitioner preferred Ext.P2 series of appeals before the 3rd respondent. The 3rd 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 vide Ext.P1 series of assessment orders.

2. In the writ petition, the petitioner impugns the said conditional order of stay, inter alia, on the ground that the 3rd 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 3rd 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 order is quashed and the 3rd 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 3rd respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/