IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WP(C).No. 37572 of 2015 (V)

PETITIONER(S):

M/S VIEW POINT LIFE STYLE,
THUNDATHIL KIZHAKKATHIL HOUSE, KANNAMKODE, ADOOR,
REPRESENTED BY IT'S MANAGING PARTNER,
MINI JAFFER KHAN.

BY ADVS.SRI.S.SANTHOSH KUMAR
SMT.P.LISSY JOSE.

RESPONDENT(S):
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1. THE DEPUTY COMMISSIONER (APPEALS II),
COMMERCIAL TAXES, KOLLAM - 691 003.

2. THE COMMERCIAL TAX OFFICER - I,
COMMERCIAL TAXES OFFICE, ADOOR, PIN - 689 694.

BY GOVERNMENT PLEADER SRI.R.RENJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 37572 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: **TRUE COPY OF THE CERTIFICATE OF AUDIT DATED 19.7.2014**

EXT.P-2: **TRUE COPY OF THE ASSESSMENT ORDER DATED 4.11.2014**

EXT.P-3: **TRUE COPY OF THE STATUTORY APPEAL FILED BEFORE THE IST RESPONDENT DATED 15.10.2015**

EXT.P-4: **TRUE COPY OF STAY PETITION FILED ALONG WITH THE APPEAL DATED 15.10.2015**

EXT.P-5: **TRUE COPY OF ORDER DATED 13.11.2015 OF FIRST RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 37572 of 2015

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Dated this the 18th day of December 2015

JUDGMENT

Against Ext.P2 Assessment order, petitioner preferred Ext.P3 appeal before the 1st respondent. Along with the appeal, the petitioner had also preferred Ext.P4 stay petition. The 1st respondent has now passed Ext.P5 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.P2 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.P5 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 **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.P5 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/