

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. 38566 of 2015 (U)

PETITIONER:

**M/S. SUEERA ALLOYS PRIVATE LIMITED,
NATTUKAL.P.O, CHITTUR, PALAKKAD,
REPRESENTED BY ITS DIRECTOR, R.ELANGOVAN.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN**

RESPONDENT(S):

- 1. THE ASSISTANT COMMISSIONER (ASSESSMENT),
SPECIAL CIRCLE, COMMERCIAL TAXES,
PALAKKAD - 678 001.**
- 2. THE KERALA VALUE ADDED TAX
APPELLATE TRIBUNAL, PALAKKAD - 678 004.**

BY GOVERNMENT PLEADER SRI.R.RANJITH

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

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF THE ASSESSMENT ORDER PASSED BY
1ST RESPONDENT FOR THE YEAR 2009-10 DATED 30.12.2014.
- EXT. P2 : TRUE COPY OF THE APPELLATE ORDER FOR THE YEAR 2009-10
DATED 4.8.2015.
- EXT. P3 : TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT DATED 31.10.2015.
- EXT. P4 : TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DATED 31.10.2015.
- EXT. P5 : TRUE COPY OF THE INTERIM ORDER PASSED BY THE
2ND RESPONDENT FOR THE YEAR 2009-10 DATED 18.11.2015.
- EXT. P6 : TRUE COPY OF THE MODIFIED ASSESSMENT ORDER FOR THE YEAR
2009-10 DATED 6.10.2015.
- EXT. P7 : TRUE COPY OF THE DEMAND NOTICE IN FORM NO.12 ISSUED BY
1ST RESPONDENT FOR THE YEAR 2009-10 DATED 6.10.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.38566 of 2015
.....
Dated this the 18th day of December, 2015

J U D G M E N T

Against Ext.P2 appellate order, petitioner preferred Ext.P3 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred Ext.P4 stay petition. The 2nd respondent has now passed Ext.P5 order on the stay petition directing the petitioner to pay 1/3 of the amount as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Ext.P2 appellate order.

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.P5 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.P5 order is quashed and the 2nd 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 2nd respondent as directed above and communicated to the petitioner.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**

W.P.(C). No.38566 of 2015